Decision for dispute CAC-UDRP-106869

Case number	CAC-UDRP-106869
Time of filing	2024-09-16 09:19:23
Domain names	ca-aquitaine-agricole.space

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	CREDIT AGRICOLE S.A.

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	FLORENT HOAREAU

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

EU trademark CA CREDIT AGRICOLE (Reg. No. 005505995), registered since November 20, 2006 in Nice classes 9, 36, 38.

FACTUAL BACKGROUND

The Complainant, CREDIT AGRICOLE S.A., is one of the largest and well-known banks in Europe, it assists its clients' projects in France and around the world, in all areas of banking and trades associated with it: insurance management, asset leasing and factoring, consumer credit, corporate and investment.

The Complainant is the owner of several trademarks including the distinctive wording “CREDIT AGRICOLE”, among them - the EU trademark CA CREDIT AGRICOLE (Reg. No. 005505995), registered since November 20, 2006 in Nice classes 9, 36, 38.

The Complainant is also the owner of several domain names including the distinctive wording “CREDIT AGRICOLE”: <creditagricole.com>, registered since June 11, 2001, and <credit-agricole.com>, registered since December 31, 1999.

The disputed domain name <ca-aquitaine-agricole.space> was registered on August 13, 2024 and redirects to parking page. MX servers are also configured.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Complainant filed the Complaint in English rather than in Russian (i.e. the language of the registration agreement). Pursuant to paragraph 11(a) of the Rules, unless otherwise agreed by the parties, or otherwise specified in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. Paragraph 10(b) and (c) of the Rules requires the Panel to ensure that the proceeding takes place with due expedition and that the parties are treated fairly and given a fair opportunity to present their respective cases.

The Complainant filed its Complaint in English and then requested that English be the language of the proceeding.

The Complainant noted the following factors supporting English as the fair language of the proceeding: (a) the choice of language is related to the fact that the Respondent's information provided by the Registrar appears to be invented (the postal address is incomplete, as no street number is given and the e-mail address does not correspond to the Respondent's name), therefore, it is not possible to verify the language understood by the Respondent and in such cases English should be the most reasonable choice, as it is the most widely used and understood language in international exchanges; (b) the disputed domain name and email address are formed by words in Roman characters (ASCII) and not in Russian script; (c) in order to proceed in Russian, the Complainant would have had to retain specialized translation services at a cost very likely to be higher than the overall cost of these proceedings.

The Complainant concludes, that the use of Russian in this case would, therefore, impose a burden on the Complainant which must be deemed significant in view of the low cost of these proceedings.

The Panel agrees with the factors presented by the Complainant and also admits additional important factors in favour of the Complainant’s option of English language for this proceeding: (a) the Respondent has been given the opportunity to present its case in this proceeding and to respond formally to the issue of the language of the proceeding; (b) the Respondent has not responded to the Complainant’s request for a change of the language from Russian to English; (c) the Respondent likely has some understanding of English because he or she has constructed the domain name under <.space> generic top-level domain in the Domain Name System of the Internet and its name is derived from the English word “space”, indicating its intended use by anyone who needs a place in the cyberspace ; (c) the Complainant would be unduly disadvantaged by having to proceed in Russian (i.e., by having to arrange and pay for the translation of the Complaint and annexes).

Considering the above circumstances, the Panel finds that the choice of English as the language of the present proceeding is fair to both parties and is not prejudicial to either one of the parties in his or her ability to articulate the arguments for this case.

The Panel has also taken into consideration the fact that insisting the Complaint and all supporting documents to be re-filed in Russian would cause an unnecessary burden of cost to the Complainant and would unnecessarily delay the proceeding which would be contrary to Paragraph 10(b) and (c) of the Rules.

Having considered all the above matters, the Panel determines under paragraph 11(a) of the Rules that (i) it will accept the Complaint and all supporting materials as filed in English; and (ii) English will be the language of the proceeding and the decision will be rendered in English.

In view of all of the above, the Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The disputed domain name is confusingly similar to the Complainant's trademark CA CREDIT AGRICOLE. The main distinctive word “AGRICOLE” of Complainant’s trademark is included to the disputed domain name in its entirety as well as abbreviation “CA” (which obviously stands for the distinctive wording of “Credit Agricole”) comes at the front of the disputed domain name.

The Panel agrees with the Complainant’s assertion that the deletion of the term “CREDIT” and the addition of the geographical term “AQUITAINE” is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark. It does not change the overall impression of the designation as being connected to the Complainant’s trademark. On the contrary, the addition of the term “AQUITAINE” reinforces the risk of confusion as it refers to the Complainant’s subsidiary “CREDIT AGRICOLE D’AQUITAINE”.

It is well established in the UDRP case law that the addition of a generic Top-Level Domain (gTLD), here <.space> (the gTLD intended for anyone on the cyberspace), is typically disregarded under the first element when considering the confusing similarity between the Complainant’s trademark and the disputed domain name.

The Panel acknowledges that the Complainant presented prima facie evidence that the Respondent is not sponsored by or affiliated with Complainant in any way. Furthermore, the Complainant has not licensed, authorized, or permitted Respondent to use Complainant’s trademarks in any manner, including in domain names. The Respondent's name (Florent Hoareau) does not resemble the disputed domain name in any manner. Respondent’s use of the disputed domain name does not constitute a bona fide offering of goods or services or a legitimate non-commercial or fair use.

On these bases, the Panel concludes that the Respondent does not have any rights or legitimate interests in regard to the disputed domain name.

As no administratively compliant response has been provided to the Panel and the prima facie evidence was not challenged by the Respondent, the Panel concludes that the Respondent evidently meant Complainant's trademark CA CREDIT AGRICOLE, when he/she registered the disputed domain name <ca-aquitaine-agricole.space> (see WIPO Overview 3.0, para. 3.1.3 and 3.2). Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Accordingly, the Panel finds that the disputed domain name was registered in bad faith.

The disputed domain name resolves to a parking page. Therefore, the Respondent has attempted to attract Internet users to his own website thanks to the Complainant’s trademark for its own commercial gain, which is an evidence of bad faith use of the disputed domain name. Finally, MX servers are configured which suggests that the disputed domain name may be actively used for e-mail purposes (see WIPO Overview 3.0, para. 3.4).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **ca-aquitaine-agricole.space**: Transferred

PANELLISTS

Name	**Darius Sauliūnas**

DATE OF PANEL DECISION 2024-10-21

Publish the Decision