

Decision for dispute CAC-UDRP-100735

Case number	CAC-UDRP-100735
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Time of filing	2014-01-10 11:46:35
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Domain names	credite-agricole.com
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Case administrator

Name	Lada Válková (Case admin)
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Complainant

Organization	CREDIT AGRICOLE S.A.
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Complainant representative

Organization	Nameshield (Anne Morin)
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Respondent

Name	DANIL JP
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OTHER LEGAL PROCEEDINGS

No legal proceedings exist.

IDENTIFICATION OF RIGHTS

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FACTUAL BACKGROUND

The Complainant is well known French and international bank using in different signs its company name "credit agricole". It was discovered by the Complainant that the Respondent registered his domain name "credite-agricole.com" on December 8, 2013. The Complainant says that the disputed domain name "credit-agricole.com" is confusingly similar to the trade mark and branded goods "CREDIT AGRICOLE". The Complainant feels that that this is contrary to Section 4 (a) and 4 (b) of the Uniform Domain Name Dispute Resolution Policy ("UDRP").

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

The Complainant has, to the satisfaction of the Panel, shown the 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).

A) Complainant

CREDIT AGRICOLE S.A. is the leader in retail banking in France and one of the largest banks in Europe.

First financing the French economy and major European player, CREDIT AGRICOLE S.A. 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 owns several trademarks including the distinctive wording CREDIT AGRICOLE® (either consisting only of the wording CREDIT AGRICOLE® or in addition to a device).

CREDIT AGRICOLE S.A. is also the owner of domain names, including the distinctive wording CREDIT AGRICOLE®.

The disputed domain name <credite-agricole.com> has been registered on December 08, 2013. The Complainant states that the disputed domain name <credite-agricole.com> is confusingly similar to its trademarks and branded goods CREDIT AGRICOLE®.

The Complainant states that the disputed domain name <credite-agricole.com> is confusingly similar to its trademark CREDIT AGRICOLE®.

The disputed domain name contains the Complainant's registered and widely known trademark CREDIT AGRICOLE® in its entirety.

The Complainant contends the addition of the letter "E", a dash and the GTLD ".COM" is not sufficient to escape the finding that the domain is confusingly similar to the trademarks and does not change the overall impression of the designation as being connected to a trademark CREDIT AGRICOLE®.

It does not avoid the likelihood of confusion between the disputed domain name <credite-agricole.com> and the Complainant, its trademark CREDIT AGRICOLE® and its domain names associated.

So the disputed domain name is confusingly similar to the Complainant's trademark.

Once such prima facie case is made, Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the UDRP.

The Complainant's trademark CREDIT AGRICOLE® is a widely known trademark. Panels have confirmed the notoriety of the trademark CREDIT AGRICOLE®.

See:

WIPO case no. D2010-1683 Credit Agricole S.A. v. Dick Weisz

WIPO case no. D2012-0258 Credit Agricole S.A. v. Wang Rongxi

Given the distinctiveness of the Complainant's trademark and reputation it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's marks and uses it for the purpose of disturbing the Complainant's business.

See Ferrari S.p.A v. American Entertainment Group. Inc, WIPO Case no. D2004-0673.

Furthermore, the domain name displays no information ("Inactive page").

Prior Panels have held the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

See:

WIPO - D2000-0003 - Telstra Corporation Limited v. Nuclear Marshmallows

WIPO - D2000-0400 - CBS Broadcasting, Inc. v. Dennis Toeppen

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

B) Respondent

The Respondent did not respond to the Complainant at all even though he is obliged to do so.

RIGHTS

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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 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 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

All procedure requirements for administrative proceeding under UDRP were met.

PRINCIPAL REASONS FOR THE DECISION

1. The main issues under the UDRP are whether:

- i. the domain names are identical or confusingly similar to a domain name or a trademark or service mark in which the Complainant has rights; and
- ii. the Respondent has no rights or legitimate interests with respect to the domain names; and
- iii. the domain names has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Panel also visited all available websites and public information concerning disputed domain name, namely the WHOIS database and related trademark register databases.

3. The Uniform Domain Names Dispute Resolution Policy in its Article 4 defines what has to be understood as an evidence of the registration and use of the domain name in bad faith.

Namely Article 4, letter b), para. iv) has to be considered in this case.

The Rules for Uniform Domain Name Dispute Resolution Policy clearly says in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a Complaint in accordance with the Policy describing according to para (ix), sub para (iii) why the domain name(s) should be considered as having been registered and being used in bad faith.

4. The panel therefore came to the following conclusions:

a) The Complainant has clearly proven that he is a long standing and successful company in banking business and known in the internet space, as well.

Domain names to be identical or confusingly similar

b) It is also clear and proven by the spelling of the French language that there is a similarity between properly registered and used domain names and trade marks of the Complainant and the disputed domain name as to the misspelling/typosquatting; phonetic similarity, optical similarity; conceptual/intellectual similarity.

Respondent not having rights or legitimate interest with respect to the disputed domain name

c) It has to be stressed that it was proven by documents delivered by the Complainant and from the factual situation on the internet that there is no legitimate interest of the Respondent in the disputed domain name.

Domain names have been registered and are used in bad faith

d) It was proven that the Respondent has registered the disputed domain name only after similar domain names of the Complainant has been registered and properly used for a long time in the business.

e) It is therefore clear that there is a high probability of a speculative behavior of the Respondent. On top of that it was not proven that the owner of the disputed domain name is active in business and therefore this based on the previous decisions and practice of the arbitrators may lead to the conclusion that the use of this domain name is speculative by the Respondent.

f) From the IP law perspective it is clear that the similar domain names were used by the Complainant for a long time before the disputed domain name was registered and used by the Respondent.

g) Therefore it has to be concluded that the Respondent has registered/acquired the disputed domain name primarily for the purpose of his own benefit when disrupting the business of the Complainant and therefore the Respondent is using the domain name in a bad faith. The domain name shall be transferred to the Complainant without a delay.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **CREDITE-AGRICOLE.COM**: Transferred

PANELLISTS

Name	Vít Horáček
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DATE OF PANEL DECISION	2014-01-11
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Publish the Decision