

Decision for dispute CAC-UDRP-104414

Case number	CAC-UDRP-104414
Time of filing	2022-03-17 08:47:47
Domain names	unicreditfinancials.com

Case administrator

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

Organization	Unicredit S.p.A.
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Complainant representative

Organization	Convey srl
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Respondent

Name	Matthew Lucas
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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

The Complainant has proven to be the owner of the UNICREDIT mark.

The Complainant is, inter alia, the owner of the following trademarks:

- International trademark registration no. 799384 “UNICREDIT BANCA” (device), granted on December 11, 2002, in classes: 09, 16, 35, 36, 38, 39, 41, 42;
- International trademark registration no. 897567 “UNICREDIT” (word), granted on August 7, 2006, in class 36;
- International trademark registration no. 766244 – UNICREDIT (device), granted on May 8, 2001 in classes: 9, 16, 35, 36, 38, 39, 41, 42;
- EUTM registration no. 002911105 – UNICREDIT (device), granted on July 14, 2009 in classes 9, 16, 35, 36, 38, 39, 41, 42;

- Italian Trademark registration no. 0001138942 "UNICREDIT PASS" (word), granted on September 10, 2008, in classes: 9, 36;

- Italian Trademark registration no. 0001011970 "UNICREDIT" (word), granted on June 13, 2006, in class 36.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant is an Italian global banking and financial services company and is the third-largest banking group in Europe. Its network spans 50 markets in 18 countries, with more than 8,500 branches and over 147,000 employees. Its strategic position in Western and Eastern Europe gives the group one of the region's highest market shares.

The disputed domain name was registered on November 28, 2021.

PARTIES' CONTENTIONS

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COMPLAINANT:

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

The Complainant contends that the disputed domain name <unicreditfinancials.com > is confusingly similar to its well-known and distinctive trademark "UNICREDIT".

The Complainant further affirms that the disputed domain name exactly reproduces the well-known "UNICREDIT" trademark with the mere addition of the generic term "financials", and that this combination strengthens confusion by suggesting to consumers that the disputed domain name and corresponding web site might be operated by the Complainant or with the Complainant's authorization.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and is not related to the Complainant's business in any way. The Complainant does not carry out any activity for, nor has any business dealings with, the Respondent. The Complainant further contends that, before receiving the Complainant's cease and desist letter, the Respondent displayed the Complainant's UNICREDIT trademark on the web site corresponding to the disputed domain name and offered services identical to those of the Complainant, aiming to pass itself off as a branch of the Complainant in München, Am Eisbach, Germany, where a branch of the Complainant (not related to the Respondent) is indeed located at that address.

3. The disputed domain name has been registered and is being used in bad faith

The Complainant contends that owing to the renown of the Complainant's trademarks, it is presumable that the Respondent had actual knowledge of the Complainant's distinctive trademarks.

The Complainant further contends that, the UNICREDIT trademark being an invented word, it is also unlikely that the disputed domain name, including that word, was chosen by the Respondent without having the trademark of the Complainant in mind. Rather, this distinctive trademark, together with the generic term "financials", creates a domain name that is confusingly similar to the Complainant's trademarks and it is the Complainant's contention that the Respondent has exploited this similarity for its

own commercial gain or for phishing.

In addition, the disputed domain name was redirected to a website promoting financial services and exploiting the Complainant's trademarks, in order to pass itself off as a branch of the Complainant.

The Complainant also claims that the Respondent is using the disputed domain name with the aim of phishing or scamming, and that this fact is confirmed by the false address indicated on the website hosted at the disputed domain name.

The Complainant finally notes that the Respondent did not reply to the cease-and-desist letter sent by the Complainant's attorneys.

RESPONDENT:

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 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

A) Confusing similarity

The Panel agrees with the Complainant's assertion that the addition of the generic term, "financials", does not prevent the disputed domain name from being confusingly similar to the Complainant's trademarks.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant's assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademarks, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademarks when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.

Thirdly, it appears from the document provided by the Complainant that the Respondent, before receiving the Complainant's cease and desist letter, was redirecting the disputed domain name to a website promoting financial services and exploiting the Complainant's trademarks in order to pass itself off as a branch of the Complainant.

Fourthly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in the cease-and-desist letter and in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **UNICREDITFINANCIALS.COM**: Transferred

PANELLISTS

Name	Dr. Fabrizio Bedarida
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DATE OF PANEL DECISION 2022-04-12

Publish the Decision
