

## **ADMINISTRATIVE PANEL DECISION**

Confédération Nationale du Crédit Mutuel-CNCM v. Domain Administrator,  
Registrant of creditmutuel.link / Konijn Leo  
Case No. D2022-2241

### **1. The Parties**

Complainant is Confédération Nationale du Crédit Mutuel-CNCM, France, represented by MEYER & Partenaires, France.

Respondent is Domain Administrator, Registrant of creditmutuel.link, United Kingdom / Konijn Leo, Netherlands.

### **2. The Domain Name and Registrar**

The disputed domain name <creditmutuel.link> is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 21, 2022. On June 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on June 28, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on June 30, 2022.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on July 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on July 22, 2022.

The Center appointed Scott R. Austin as the sole panelist in this matter on July 29, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

Without contest by Respondent, Complainant asserts in its Complaint as amended, and its Annexes attached provide evidence sufficient to support that:

Complainant, CONFEDERATION NATIONALE DU CREDIT MUTUEL-CNCM, is the political and central body which controls the "Credit Mutuel" banking group, operating through a network of 3,178 offices in France to provide banking and insurance services to 12 million clients for more than a century. Complainant provides these services under the trademark CREDIT MUTUEL (the "CREDIT MUTUEL Mark") in all fields of finance for both individuals and businesses.

Complainant owns numerous registrations protecting the CREDIT MUTUEL Mark, including:

French Trademark Registration No. 1475940, CREDIT MUTUEL registered on July 8, 1988, for services in International Classes 35 and 36;

French Trademark Registration No. 1646012, CREDIT MUTUEL registered on November 20, 1990, for a range of goods and services in International Classes 16, 35, 36, 38, and 41; and

European Union Trademark Registration No. 9943135, CREDIT MUTUEL registered on October 20, 2011, for goods and services in International Classes 9, 16, 35, 36, 38, 41, 42, and 45.

Complainant has also registered domain names that incorporate the CREDIT MUTUEL Mark used to access and operate its official CREDIT MUTUEL websites, including <creditmutuel.com>, registered on October 27, 1995, used to access its official web portal at "www.creditmutuel.com", providing information to the public about Complainant's offline and online banking services, and <creditmutuel.fr> registered on August 9, 1995, used to access its official website at "www.creditmutuel.fr", which website specifically provides online banking services to allow Complainant's clients to access and manage their accounts online.

The disputed domain name was registered on May 15, 2022, and resolved to an index page with only one hyperlink that directed to a 403 error page, at the time of the filing of the Complaint.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that the disputed domain name is identical or confusingly similar to Complainant's trademark, that Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name was registered and is being used in bad faith.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

#### **6. Discussion and Findings**

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent this Panel from determining the present dispute based upon the Complaint as amended, notwithstanding the failure of any

person to lodge a substantive formal Response in compliance with the Rules. Under paragraph 14 of the Rules, where a party does not comply with any provision of the Rules, the Panel shall “draw such inferences therefrom as it considers appropriate”.

Where no substantive Response is filed, however, Complainant must still make out its case in all respects under paragraph 4(a) of the Policy. To succeed, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied. The Panel will address its findings on each of these requirements in more detail below.

The standard of proof under the Policy is often expressed as the “balance of the probabilities” or “preponderance of the evidence” standard. Under this standard, an asserting party needs to establish that it is more likely than not that the claimed fact is true. See, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.2.

### **A. Identical or Confusingly Similar**

Ownership of a nationally registered trademark constitutes *prima facie* evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant claims trademark rights in the CREDIT MUTUEL Mark for its banking and finance related goods and services dating back to 1981. Sufficient evidence has been submitted in the form of electronic copies of valid and subsisting international trademark registration documents in the name of Complainant and therefore, Complainant has demonstrated it has rights in the CREDIT MUTUEL Mark. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#).

With Complainant’s rights in the CREDIT MUTUEL Mark established, the remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant’s CREDIT MUTUEL Mark. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a “reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name”. [WIPO Overview 3.0](#), section 1.7.

Prior UDRP panels have also held “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”. See, *id*; see also, *Wal-Mart Stores, Inc. v. MacLeod d/b/a/ For Sale*, WIPO Case No. [D2000-0662](#).

A side-by-side comparison between the disputed domain name and Complainant’s Mark shows the disputed domain name consists of the terms “credit” and “mutuel”, identical to the terms comprising the CREDIT MUTUEL Mark, with omission of the space between them, incorporated in their entirety into the disputed domain name.

Prior UDRP panels have found typographic differences, such as the inclusion or omission of hyphens, spaces and apostrophes are inadequate to avoid a finding of confusing similarity. See, e.g., *L’Oreal v. Tracey Johnson*, WIPO Case No. [D2008-1721](#), see also *Monster Energy Company v. Joshua Jones*, WIPO Case No. [D2021-0329](#). Finally, the Top-Level-Domain (“TLD”) in a domain name <.link> typically adds no meaning or distinctiveness to a disputed domain name, being viewed as a standard registration requirement to be disregarded under the paragraph 4(a)(i) analysis. See, [WIPO Overview 3.0](#), section 1.11; see also *Research in Motion Limited v. Thamer Ahmed Alfarshooti*, WIPO Case No. [D2012-1146](#).

Based on the above, this Panel finds that the omission of a space between the identical terms found in Complainant’s Mark does not prevent a finding of confusing similarity between the disputed domain name and Complainant’s well-known CREDIT MUTUEL Mark, which is essentially identical as incorporated in its entirety into the disputed domain name. Accordingly, the Panel finds the disputed domain name confusingly similar to the CREDIT MUTUEL Mark in which Complainant has rights and Complainant has satisfied its burden under paragraph 4(a)(i) of the Policy.

## B. Rights or Legitimate Interests

Under the second element of the Policy, the complainant has to make out a *prima facie* case that the respondent does not have rights to or legitimate interests in the disputed domain name, upon which the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights to or legitimate interests in the dispute domain name. If the respondent fails to come forward with such evidence, a complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1. See also *The American Automobile Association, Inc. v. aaaaautoinsurance.com Privacy--Protect.org*, *aaa-netaccess.com Privacy--Protect.org*, *aaanetacceess.com Privacy--Protect.org*, *Isaac Goldstein*, WIPO Case No. [D2011-2069](#).

Paragraph 4(a)(ii) of the Policy also directs an examination of the facts to determine whether a respondent has rights or legitimate interests in a domain name. Paragraph 4(c) lists a number of ways in which a respondent may demonstrate that it does have such rights or interests.

The first example, under paragraph 4(c)(i), is where “before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services”.

Here, the Annex to the Complaint shows the disputed domain name does not resolve to an active website, but to an index page with only one hyperlink that directs to a 403 error page. Complainant contends such use of a domain name is neither a *bona fide* offering of goods or services pursuant to paragraph 4(c)(i) nor a legitimate noncommercial or fair use pursuant to Policy paragraph 4(c)(iii). Prior UDRP panels have held that absence of use does not confer any rights or legitimate interests on a respondent. See, e.g., *Indiamart Intermesh Ltd. v. Yi Zhi Ge, Ge Yi Zhi*, WIPO Case No. [D2019-0930](#). Similarly, prior UDRP panels have also specifically found use of a disputed domain name to resolve to a blank or inactive web page does not without more represent a *bona fide* use of the disputed domain name pursuant to paragraph 4(c)(i) nor a legitimate noncommercial or fair use pursuant to paragraph 4(c)(iii). See *Microsoft Corporation v. Charilaos Chrisochou*, WIPO Case No. [D2004-0186](#).

Complainant’s submitted evidence shows nonuse of the disputed domain name. As in the foregoing decisions this Panel finds the disputed domain name is not being used in connection with a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use sufficient to demonstrate Respondent has any rights or legitimate interests in the disputed domain name under the factors specified by paragraphs 4(c)(i) or (c)(iii) of the Policy.

The second example, under paragraph 4(c)(ii), is a scenario in which a respondent is commonly known by the domain name. Complainant states that Respondent is not related in any way with Complainant, does not carry out any activity for, nor have any business with Respondent. Neither has Complainant granted any license or authorization to Respondent to make any use of Complainant’s CREDIT MUTUEL Mark or apply for registration of the disputed domain name. Complainant has never authorized Respondent to use the CREDIT MUTUEL Mark, or any marks confusingly similar thereto for any purpose, including as a domain name. Prior UDRP panels have found a lack of rights or legitimate interests under the second element of the Policy based on such circumstances. See, e.g., *Charles Schwab & Co., Inc. v. Josh Decker d/b/a I GOT YOUR TIX*, WIPO Case No. [D2005-0179](#); *Guerlain S.A. v. HI Investments*, WIPO Case No. [D2000-0494](#).

Complainant also shows that Respondent is not commonly known by the disputed domain name because the original Respondent listed in the Whois record submitted with the Complaint displayed “Domain Administrator, Registrant of creditmutuel.link” of the United Kingdom. The Registrar identified the underlying registrant information including name and email address in its verification process as “Konijn Leo” of the Netherlands, which name and email address Complainant requested be added as a Respondent in an email to the Center to amend the Complaint. Respondent does not bear any resemblance to the disputed domain name whatsoever. Thus, there is no evidence in this case to suggest that Respondent is commonly known by the disputed domain name, that it is licensed or otherwise authorized to use Complainant’s Mark, or that it has acquired any trademark rights relevant thereto. As such, the Panel finds this sub-section of the Policy is

of no help to Respondent and the facts presented here support a lack of rights or legitimate interests in the disputed domain name. See *Confédération nationale du crédit mutuel v. Yu Ke Rong*, WIPO Case No. [D2018-0948](#); *Expedia, Inc. v. Dot Liban, Hanna El Hinn*, WIPO Case No. [D2002-0433](#).

In light of the above, and with no Response or other submission in this case to rebut Complainant's assertions and evidence, the Panel finds that the facts of this case demonstrate that Respondent has no rights or legitimate interests in the disputed domain name. Complainant has successfully met its burden under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Finally, Complainant must prove, by a preponderance of the evidence, that the disputed domain name has been registered and used in bad faith under paragraph 4(a)(iii) of the Policy. See, e.g., *Hallmark Licensing, LLC v. EWebMall, Inc.*, WIPO Case No. [D2015-2202](#).

Paragraph 4(b) of the Policy sets out a non-exhaustive list of circumstances that point to bad faith conduct on the part of a respondent. The panel may, however, consider the totality of the circumstances when analyzing bad faith under Policy, paragraph 4(a)(iii) and may make a finding of bad faith that is not limited to the enumerated factors in Policy, paragraph 4(b). See *Do the Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#).

First, Complainant contends and prior UDRP panels have found that the CREDIT MUTUEL Mark is a distinctive and well-known trademark. See e.g., *Confédération Nationale du Crédit Mutuel v. Whois Privacy Protection Foundation / Dani Lapo*, WIPO Case No. [D2020-0976](#).

Complainant further contends that the name CREDIT MUTUEL is not used *per se* in the common French language and designates nothing else in French other than Complainant and its Mark, so there is no other explanation to register the disputed domain name other than to target Complainant. Given its CREDIT MUTUEL Mark is well known, and the disputed domain name incorporates it in its entirety, the Panel finds bad faith registration based on Respondent's actual knowledge of the CREDIT MUTUEL Mark given its widespread recognition, especially in Europe where Respondent is reportedly located (as per the Registrar), and where the mark has been in use and registered for decades before Respondent registered the disputed domain name. Prior UDRP panels have found that where it would be implausible to believe that Respondent selected and was using the disputed domain name for any purpose other than to trade on Complainant's trademark rights and reputation, establishes a fact pattern that repeatedly has been held to constitute bad faith registration. See *Confédération nationale du crédit mutuel v. Yu Ke Rong*, *supra*; see also *Houghton Mifflin Co. v. The Weathermen, Inc.*, WIPO Case No. [D2001-0211](#).

Given the widespread recognition of Complainant's CREDIT MUTUEL Mark in Europe, where Respondent is reportedly located (as per the Registrar), and decades of use of the CREDIT MUTUEL Mark prior to Respondent's registration of the disputed domain name on May 15, 2022, the ultimate effect of any use of the disputed domain name will be to cause confusion with Complainant and therefore, the use and registration of the disputed domain name must be considered to be in bad faith. See *Empresa Brasileira de Telecomunicações S.A. v. Kevin McCarthy*, WIPO Case No. [D2000-0164](#).

Prior UDRP panels have also held that a respondent's selection of a disputed domain name that comprises the complainant's mark in its entirety demonstrates a respondent's actual knowledge to support a finding of bad faith in registering and using the domain. See, e.g., *Lloyds Bank Plc v. Marc Wiese*, WIPO Case No. [D2015-0914](#); see also, *Heineken Brouwerijen B.V. v Mark Lott*, WIPO Case No. [D2000-1487](#). Moreover, 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. See [WIPO Overview 3.0](#), section 3.1.4.

This Panel has found these facts demonstrate a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its disputed domain name, by creating a likelihood of confusion

with Complainant's CREDIT MUTUEL Mark as to the source, sponsorship, affiliation or endorsement of Respondent, and, therefore, evidence of registration and use of the disputed domain name in bad faith under paragraph 4(b)(iv) of the Policy. See *Association des Centres Distributeurs E. Leclerc - A.C.D Lec v. Milen Radumilo* WIPO Case No. [D2017-2003](#).

Complainant also submits even though the disputed domain name does not resolve to an active website, and Complainant has not seen any prior use, the disputed domain name is nonetheless being "used" in bad faith under the doctrine of passive holding. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), section 3.3. It is the consensus of UDRP panels that the key points in determining bad faith use under the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), *supra*.

Based on factors already considered, the Panel finds the disputed domain name being passively held does not prevent a finding of bad faith use, because: (1) the renown and well-recognized nature of the CREDIT MUTUEL Mark for banking and financial services; (2) that Respondent submitted no response, nor any evidence of actual or contemplated good faith use; (3) Complainant has shown that the Whois registration data for Respondent was concealed by identity proxy services to keep its contact details obfuscated. Prior UDRP panels have held the use of such services supportive of bad faith registration and use. *Barrett Steel Limited v. Domain Admin, Whois Privacy Corp / Joseph Ddiba*, WIPO Case No. [D2022-0575](#). The Panel concludes that the passively held disputed domain name cannot plausibly be used by Respondent in good faith. Prior UDRP panels have repeatedly made this finding based on a complainant's mark's recognition and reputation as well-known. See *Confédération Nationale du Crédit Mutuel v. Andrea Quan*, WIPO Case No. [D2022-0094](#); see also *Cloudflare, Inc. v. Anson Network Limited*, WIPO Case No. [D2019-2435](#).

Finally, Complainant contends that although Respondent's website is inactive, the disputed domain name has been configured by Respondent with MX and SPF records making it capable of email communication, settings which combined with an inactive site are often characteristic of "phishing" schemes. Since the disputed domain name reproduces identically the well-known CREDIT MUTUEL Mark, a third party receiving an email from the disputed domain name could reasonably assume that it was sent from Complainant. Complainant points out that, as a banking services group, they are continually targeted by counterfeiting/phishing attempts, and this combination of facts has been held by prior UDRP panels as another basis for finding bad faith use. See *Accenture Global Services Limited v. Registration Private, Domains by Proxy, LLC / Thomas Clark*, WIPO Case No. [D2019-1465](#); see also *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#).

The Panel finds Complainant's arguments and evidence persuasive and has received no arguments or evidence from Respondent to the contrary. Considering all the circumstances, the Panel concludes that Respondent has registered and used the disputed domain name in bad faith and Complainant has satisfied paragraph 4(a)(iii) of the Policy.

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names, <creditmutuel.link> be transferred to Complainant.

/Scott R. Austin/

**Scott R. Austin**

Sole Panelist

Date: August 15, 2022