

ADMINISTRATIVE PANEL DECISION

Crédit Industriel et Commercial S.A v. Chizzy Chukwu
Case No. D2022-0298

1. The Parties

The Complainant is Crédit Industriel et Commercial S.A, France, represented by MEYER & Partenaires, France.

The Respondent is Chizzy Chukwu, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <cic-bnq.com> (the “Domain Name”) is registered with Center of Internet Names in Ukraine dba UKRNAMES (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 28, 2022. On January 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 28, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details, which did not differ from the named Respondent and contact information in the Complaint.

The Registrar confirmed that the language of the Registration Agreement for the Domain Name is Russian. On February 8, 2022, the Center sent an email communication to the Parties in both English and Russian regarding the language of the proceeding. The Complainant requested that English be the language of the proceeding on February 10, 2022. The Respondent did not comment on the language of the proceeding.

The Center verified that 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 the Respondent of the Complaint in both English and Russian, and the proceedings commenced on February 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2022. The Respondent

did not submit any response. Accordingly, the Center notified the Respondent's default on April 4, 2022.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on April 12, 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.

On April 26, 2022, the Panel issued the Procedural Order No 1 regarding confirmation of the mutual jurisdiction clause. The Panel invited the Complainant to amend and/or confirm the requested mutual jurisdiction, as well as invited the Respondent to comment on such amendment and/or confirmation of the mutual jurisdiction.

On April 27, 2022, the Complainant submitted the amended Complaint indicating the courts at the location of the Respondent in the mutual jurisdiction clause. The Respondent has not submitted any response to the Procedural Order No 1.

4. Factual Background

Crédit Industriel et Commercial S.A, the Complainant in the present proceedings, is the French oldest deposit bank. It was established in 1859. Currently, the Complainant is a part of the banking group Crédit Mutuel Alliance Fédérale. The Complainant has currently more than 4,7 million clients as well as more than 2,000 agencies in France and 38 abroad.

The Complainant is the owner of numerous CIC and CIC BANQUES trademark registrations, including:

- the European Union Registration CIC No. 005891411 registered on March 5, 2008;
- the French Registration CIC No. 1358524 registered on June 10, 1986;
- the International Registration CIC BANQUES No. 585099 registered on April 10, 1992;
- the French Registration 1691423 No. 1691423 registered on September 5, 1991.

The Complainant is also the owner of numerous domain names incorporating its CIC and CIC BANQUES trademarks, including <cic.fr>, <cicbanque.info>, <cicbanques.com> or <cicbank.com>.

The Respondent registered the Domain Name on November 8, 2021.

On November 18, 2021 and December 15, 2021 the Complainant sent to the Respondent cease and desist letters. However, the letters remain unanswered.

In accordance with the screenshots attached to the Complaint, as of January 19, 2022, the Domain Name resolved to an inactive website. At the date of this Decision, the Domain Name still resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant requests that the Domain Name be transferred to the Complainant. According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the Domain Name is confusingly similar to the CIC and CIC BANQUES trademark registrations of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met.

At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence". See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

A. Language of Proceedings

The language of the Registration Agreement for the Domain Name is Russian. Paragraph 11(a) of the Rules provides that "unless otherwise agreed by the Parties, or specified otherwise 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". The Panel may also order that any documents submitted in a language other than that of the proceeding be translated.

As noted by previous UDRP panels, paragraph 11 of the Rules must be applied in accordance with the overriding requirements of paragraphs 10(b) and 10(c) of the Rules that the parties are treated equally, that each party is given a fair opportunity to present its case, and that the proceeding takes place with due expedition (see, e.g., *General Electric Company v. Edison Electric Corp. a/k/a Edison Electric Corp. General Energy, Edison GE, Edison-GE and EEEGE.COM*, WIPO Case No. [D2006-0334](#)).

The Complainant has submitted a request that the language of the proceedings be English.

The Complainant contends *i.a.* that English is a common language in international business. Moreover, the Complainant notes that the translation of the Complaint into Russian would cause undue delays and costs to the Complainant.

The Panel accepts that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into Russian. Moreover, the Panel notes that the Respondent did not comment on the language of the proceedings.

Thus, taking these circumstances into account, the Panel finds that it is appropriate to exercise its discretion and allow the proceedings to be conducted in English.

B. Identical or Confusingly Similar

The first element that the Complainant must establish is that the Domain Name is identical or confusingly similar to the Complainant's trademark rights.

The Complainant holds numerous valid CIC and CIC BANQUES trademark registrations, which precede the registration of the Domain Name.

The Domain Name incorporates the Complainant's CIC trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a registered trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The addition of the term "bnq" does not prevent confusing similarity between the Domain Name and the Complainant's trademark. UDRP panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms, whether descriptive, geographical, pejorative, meaningless, or otherwise, would not prevent a finding of confusing similarity under the first element. See section 1.8, [WIPO Overview 3.0](#).

Moreover, the Domain Name may be also considered as consisting of a misspelling of the Complainant's CIC BANQUES trademark. In the term "banques" the letters "a", "u", "e" and "s" have been deleted. However, the word "bnq" can be still associated with the French word "banques". As numerous UDRP panels have held, a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark. See section 1.9, [WIPO Overview 3.0](#).

The generic Top-level Domain ".com" in the Domain Name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1, [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainant's trademarks. Thus, the Complainant has proved the requirements under paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name.

The respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has made 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 prior to the dispute; or
- (ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or
- (iii) that it intends to make a legitimate, noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence in the record that there are the Complainant's CIC and CIC BANQUES trademark registrations, which predate the Respondent's registration of the Domain Name. There is no evidence in the case that the Complainant has licensed or otherwise permitted the Respondent to use the CIC and CIC BANQUES trademarks or to register the Domain Name incorporating these

trademarks. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it does not result from the evidence in the record that the Respondent makes use of the Domain Name in connection with a *bona fide* offering of goods or services, or that it makes a legitimate, noncommercial or fair use of the Domain Name without intent for commercial gain.

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence in the case file that refutes the Complainant's submissions. The Panel concludes that the Complainant has also proved the requirement under paragraph 4(a)(ii) of the Policy.

D. Registered and Used in Bad Faith

The third requirement the Complainant must prove is that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1, [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use include without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name were registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor: or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the CIC and CIC BANQUES trademarks predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademarks at the time of registration of the Domain Name. It has been proven to the Panel's satisfaction that the Complainant's CIC and CIC BANQUES trademarks are well-known and unique to the Complainant. Thus, the Respondent could not likely reasonably ignore the reputation of products and services the trademarks identify.

Moreover, the Domain Name resolves to an inactive website. In the overall circumstances of this case, the Panel finds that the Respondent's passive holding of the Domain Name supports the finding of bad faith. As numerous UDRP panels have held, passive holding, under the totality of circumstances of the case, can constitute a bad faith use under the Policy. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), and *Novo Nordisk A/S v. CDMS Invest*, WIPO Case No. [D2012-0676](#).

For the reasons discussed above, the Panel finds that the Complainant has proved the requirements under 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 Domain Name <cic-bnq.com> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: May 10, 2022