

ADMINISTRATIVE PANEL DECISION

Credit Industriel et Commercial S.A. v. James Allen
Case No. D2022-4853

1. The Parties

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

The Respondent is James Allen, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <fr-cic-groupe.com> (the “Disputed Domain Name”) is registered with IONOS SE (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 19, 2022. On December 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 20, 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 the Complainant on January 6, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on January 11, 2023.

The Center verified that the Complaint together with the amended 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, and the proceedings commenced on January 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 1, 2023.

The Center appointed Nicholas Weston as the sole panelist in this matter on February 20, 2023. 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

The Complainant is France's oldest deposit bank, set up in 1859 by an imperial decree of Napoleon III and has more than 5.3 million customers. The Complainant holds a portfolio of registrations for the trademark C.I.C. or CIC including French trademark number 1358524, registered on June 10, 1986, and European trademark number 005891411 registered on March 5, 2008.

The Complainant owns several domain names that incorporate its trademark including the domain name <cic.fr>, registered on May 27, 1999.

The Disputed Domain Name <fr-cic-groupe.com> was registered on December 5, 2022, and resolves to a parking webpage set up by the Registrar.

5. Parties' Contentions

A. Complainant

The Complainant cites its trademark registrations, *inter alia*, in France and the European Union for the mark CIC and variations of it, as *prima facie* evidence of ownership.

The Complainant submits that the mark CIC is well-known and that its rights in that mark predate the Respondent's registration of the Disputed Domain Name. It submits that the Disputed Domain Name is identically reproducing its trademark, with the addition of the hyphens, the letters "fr", the French word "groupe", and the generic Top-Level Domain ("gTLD") ".com".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because "[t]he Complainant has not given to anyone else the permission to use its trademarks in any manner, including in domain names" and none of the circumstances set out in paragraph 4(c) of the Policy apply.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to the prior use and well-known nature of the Complainant's trademark, and advances the argument that the passive holding of the Disputed Domain Name would not prevent a finding of bad faith.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and

(iii) that the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark CIC (and variations) in numerous jurisdictions including France and the European Union. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any country or region (see [WIPO Overview 3.0](#)), section 1.2.1).

Turning to whether the Disputed Domain Name is identical or confusingly similar to the CIC trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) the letters “fr”; (b) followed by a hyphen; (c) followed by an exact reproduction of the Complainant’s trademark CIC; (d) followed by another hyphen; (e) followed by the French word “groupe”; (f) followed by the gTLD “.com”.

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11). The relevant comparison to be made is with the second-level portion of the Disputed Domain Name, specifically: “fr-cic-groupe”.

As the relevant mark is incorporated in its entirety and as such is recognizable in the Disputed Domain Name, in line with previous UDRP decisions, the addition of the hyphens, the letters “fr”, and the word “groupe”, would not prevent a finding of confusing similarity under the first element. This Panel therefore finds that the Disputed Domain Name is confusingly similar to the Complainant’s CIC trademark for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

Accordingly, the Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Name. The Policy also places the burden on the Complainant to establish the absence of the Respondent’s rights or legitimate interests in the Disputed Domain Name. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see *World Wrestling Federation Entertainment, Inc. v. Ringside Collectibles*, WIPO Case No. [D2000-1306](#); [WIPO Overview 3.0](#), section 2.1).

The Complainant contends, in summary, that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because (i) the Disputed Domain Name resolves to a parking webpage; (ii) the Respondent has not acquired or owned any trademark or service mark rights in the name CIC, and has not been commonly known by the name CIC; (iii) the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain; and (iv) there is an increased risk that the Disputed Domain Name could be used by the Respondent to engage in unlawful phishing.

The Panel’s search of publicly available MX records reveals that a DNS “mail exchange” (MX) record has been activated, allowing email to be routed to a mail server, indicating a heightened risk that the Disputed Domain Name may be used for fraud or phishing.¹ Panels have also categorically held that the use of a Disputed Domain Name for illegal activity such as phishing, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent (see [WIPO Overview 3.0](#), section 2.13.1).

¹ Panels do commonly undertake limited factual research into matters of public record where such information may be useful to assessing the case merits and reaching a decision, (see [WIPO Overview 3.0](#), section 4.8). Data from MX Toolbox accessed on February 22, 2023 at URL: <https://mxtoolbox.com/SuperTool.aspx?action=mx%3afr-cic-groupe.com&run=toolpage>.

The Panel also notes the evidence that the Disputed Domain Name in this proceeding resolves to a parking webpage. The Panel is satisfied that a *prima facie* case exists that the Respondent lacks rights or legitimate interests. In the absence of a Response by the Respondent, this Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Panel finds for the Complainant on the second element of the Policy.

C. Registered and Used in Bad Faith

The third element of the Policy that the Complainant must also demonstrate is that the Disputed Domain Name has been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both of these conjunctive requirements.

The Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Name and the well-known nature of the Complainant's trademark, the Panel is satisfied that the Respondent knew of and targeted the Complainant's trademark CIC when it registered the Disputed Domain Name (see *Credit Industriel et Commercial S.A., Banque Fédérative du Crédit Mutuel v. Headwaters MB*, WIPO Case No. [D2008-1892](#) ("Complainant's marks are well known"); *Credit Industriel et Commercial v. Mao Adnri*, WIPO Case No. [D2013-2143](#) ("[t]he Panel finds that this mark, owned by the Complainant, is a well-known one"); *Crédit Industriel et Commercial S.A. v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-3979](#) ("[t]he Panel accepts the common view of the past panels that the CIC Trademark is well-known")).

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Name other than to trade off the reputation and goodwill of the Complainant's well-known trademark (see *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#) (which held that the domain name in question was "so obviously connected with the Complainant and its products that its very use by someone with no connection with Complainant suggests opportunistic bad faith").

Further, a gap of several years between registration of a complainant's trademark and respondent's registration of a disputed domain name (containing the trademark) can indicate bad faith registration (see *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#)). In this case, the Respondent registered the Disputed Domain Name some 37 years after the Complainant established registered trademark rights in the CIC mark.

On the issue of use, the Complainant's evidence is that the Disputed Domain Name does not currently resolve to an active website set up by the Respondent, but rather to a parking webpage set up by the Registrar. Previous UDRP panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying 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" (See [WIPO Overview 3.0](#), section 3.3). This Panel notes that the evidence is that all four of these four factors are present in this proceeding.

Further, the activated MX record is publicly available evidence of configuration of an email server and indicates an increased risk of the Disputed Domain Name's potential use to obtain personal information, or sensitive financial information, of potential customers of the Complainant — an activity that falls into a category of conduct known as "phishing". In line with prior UDRP panel decisions, the Panel finds that the potential or actual use of the Disputed Domain Name for a *per se* illegitimate activity such as phishing supports a finding of bad faith under the Policy (see [WIPO Overview 3.0](#), section 3.1.4).

In the absence of any evidence to the contrary, this Panel finds that the Respondent has taken the Complainant's trademark CIC and incorporated it in the Disputed Domain Name without the Complainant's consent or authorization, for the purpose of capitalizing on the reputation of the trademark to infringe upon the Complainant's rights.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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 Name, <fr-cic-groupe.com>, be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: March 2, 2023