

ADMINISTRATIVE PANEL DECISION

Confederation Nationale Du Credit Mutuel - CNCM v. Aly Mane Case No. D2023-0627

1. The Parties

The Complainant is Confederation Nationale Du Credit Mutuel - CNCM, France, represented by MEYER & Partenaires, France.

The Respondent is Aly Mane, France.

2. The Domain Name and Registrar

The disputed domain name <aide-credit-mutuelle.com> is registered with Google LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 10, 2023. On February 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 11, 2023, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 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 February 20, 2023.

The Registrar also indicated that the language of the Registration Agreement was French. The Complaint was filed in English. The Center sent an email communication to the Complainant on February 16, 2023, inviting the Complainant to provide sufficient evidence of an agreement between the Parties for English to be the language of proceeding, a Complaint translated into French, or a request for English to be the language of proceedings. Further to the Center's request for clarification dated March 3, 2023 regarding the Complainant's communication dated February 16, 2023, the Complainant filed a request for English to be the language of proceedings on March 6, 2023. The Respondent did not submit any arguments.

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 March 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 30, 2023.

The Center appointed Elise Dufour as the sole panelist in this matter on April 12, 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, Confédération Nationale du Crédit Mutuel, is the political and central body for the banking group CREDIT MUTUEL, which is the second French banking and insurance services group, providing its services to 12 million clients for more than a century. It operates a number of web portals including a web portal at "www.creditmutuel.com" and "www.creditmutuel.fr" that offers online banking services.

The Complainant owns several trademark registrations including the following trademarks:

- CREDIT MUTUEL, French semi-figurative trademark n°1646012 with a registration date of November 20, 1990, duly renewed, in classes 16, 35, 36, 38 and 41;
- CREDIT MUTUEL, French semi-figurative trademark n°1475940 with a registration date of July 8, 1988, duly renewed, in classes 35 and 36;
- CREDIT MUTUEL, European Union word trademark n° 9943135 with a registration date of October 20, 2011 in classes 9, 16, 35, 36, 38, 41, 42, 45;

The Complainant is also the holder of many domain names incorporating the trademark CREDIT MUTUEL such as <creditmutuel.com>, registered on October 28, 1995.

The Complainant claims that the trademark CREDIT MUTUEL has been recognized as well known by previous UDRP decisions. In addition, the French Ministry issued Order No. 58-966 reserving the use of the tradename "Credit Mutuel" to Complainant and its affiliates.

The disputed domain name was registered on January 17, 2023.

According to evidence submitted by the Complainant, the disputed domain name currently leads to an inactive website, which has been blocked, showing a warning notice for dangerous content.

5. Parties' Contentions

A. Complainant

The Complainant contends that (i) the disputed domain name is confusingly similar to the Complainant's trademarks; (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and (iii) the Respondent registered and is using the disputed domain name in bad faith.

- (i) For the Complainant, the trademark CREDIT MUTUEL is confusingly similar to the disputed domain name. The trademark CREDIT MUTUEL is entirely reproduced in the disputed domain name, the only differences being the addition of the letters "le" and of the word "aide". The mere addition of a generic Top-Level domain name ("gTLD") ".com" is not sufficient to distinguish the Complainant's trademark from the disputed domain name.

- (ii) The Respondent is an individual using the Complainant's trademark CREDIT MUTUEL without license or authorization and not having any business relations with the Complainant. The Respondent is not commonly known under "aide credit mutuelle". Further, the website under the disputed domain name is pointing to a sole webpage on which is mentioned that the "website is misleading". For the Complainant, the non-use of the disputed domain name is neither a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use.
- (iii) Due to the strong reputation and well-known character of the trademark CREDIT MUTUEL, the Complainant considers that the Respondent could not have ignored the existence of the Complainant's trademark at the time the disputed domain name was registered. In addition, for the Complainant, the fact that the Respondent used a Whois proxy service with the purpose of not being identified or contacted is proof of registration in bad faith.

The Complainant also claims that the Respondent's use of the disputed domain name constitutes bad faith use. Indeed, the Firefox browser has blocked the page to which the disputed domain name resolves because it could lead the Internet users to perform dangerous actions such as installing software or revealing personal information such as passwords or credit card numbers. Firefox blocked therefore this website for avoiding phishing schemes against the Complainant, which is per se an indication of bad faith. In addition, the passive holding of the disputed domain name amounts to bad faith inasmuch: The disputed domain name is willingly reproducing Complainant's well-known trademark CREDIT MUTUEL; The Respondent has used a Proxy service to conceal identity; it is implausible that the disputed domain name might be used in good faith. For the Complainant, the disputed domain name might mislead Internet users looking for CREDIT MUTUEL services.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

6.1 Language of proceedings

The language of the registration agreement for the disputed domain name is French.

Paragraph 11(a) of the Rules provide: "Unless otherwise agreed by the Parties or specified otherwise in the Registration Agreement, the language of the 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 proceedings."

The Complainant submitted a request that the language of the proceeding should be English, rather than French.

The Complainant argued that:

- The Respondent chose an American registrar, Google LLC,
- English language is logically proposed on the registrar's website, "https://domains.google/intl/en_uk/",
- The Registration agreement is thus available in English,
- English is a common language in international business,
- No material element does ensure that the Respondent has no knowledge of English, otherwise, he would not have chosen an American registrar but rather a French registrar,
- The translation of the Complaint into French would cause unduly delays to the Complainant with respect to a decision in this case.

On February 16, 2023, the Center notified Respondent in English and in French of Complainant's request that the language of the proceedings be English, inviting Respondent to reply in either French or English to this request by February 21, 2023, and warning that should Respondent fail to respond by that date, the Center would assume that Respondent had no objection to proceeding in English and that the Center would conduct the proceeding in English and French, subject to the Panel's ultimate determination. The Respondent failed to respond or to object to the conduct of the proceedings in English.

Given that a request has been made that the proceeding be conducted in the English language, that the Complainant's request and the request for response thereto and the Notification of Complaint were served on Respondent by the Center in both French and English, that the Respondent has failed to respond to any of the Center's communications or to the complaint, the Panel considers that, even if both the Complainant and the Respondent appear to be French, the registration agreement is in French and the disputed domain name incorporates the French word "aide", the proceeding of this matter should be conducted in English in order to avoid delays in the processing of the case and additional costs to the Complainant.

6.2 Discussion and findings

In the absence of any response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- 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 respect of the disputed domain name; and
- iii) the disputed domain name was registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Complainant owns trademark registrations for the trademark CREDIT MUTUEL. The Panel is satisfied that the Complainant has established its ownership of the trademark CREDIT MUTUEL.

The disputed domain name wholly incorporates the Complainant's trademarks CREDIT MUTUEL, which, as long established by previous UDRP panels, may be sufficient to determine that a disputed domain name is identical or confusingly similar to the Complainant's trademarks. (See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

In addition, the disputed domain name only differs from the Complainant's trademark CREDIT MUTUEL through the addition of the letters "le" and of the word "aide".

Finally, the applicable TLD ".com" in the disputed domain name is considered a standard technical registration requirement and, as such, is generally disregarded under the first element confusing similarity test (See section 1.11, [WIPO Overview 3.0](#)).

Thus, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks.

The Panel finds that the requirement of paragraph 4(a)(i) of the Policy is met.

B. Rights or Legitimate Interests

The burden of proof is on the Complainant to demonstrate a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. Once the Complainant has made out a *prima facie* case, the burden of production then shifts to the Respondent, which has to then demonstrate rights or legitimate interests in the disputed domain name.

On the basis of the submitted evidence, the Panel considers that the Complainant has successfully established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name: The Respondent is not commonly known under the disputed domain name, nor owns any registered rights on the disputed domain name or has been authorized by the Complainant to use the prior trademarks in any way.

The Panel does not find any indications that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or has rights or legitimate interests in any other way in the disputed domain name. On the contrary, the disputed domain name directs to a sole webpage on which is mentioned that the “website is misleading”, which cannot amount to a legitimate noncommercial or fair use of the disputed domain name.

Therefore, the Panel finds that the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Given these circumstances the Panel finds that the second element of the Policy has been satisfied.

C. Registered and Used in Bad Faith

In regards to the registration of the disputed domain name, which encompasses the trademark CREDIT MUTUEL with a common spelling mistake (the addition of the letters “le”), and the addition of the word “aide”, which means “help” in French, the Panel considers it unlikely that, at the time of the registration of the disputed domain name, the Respondent did not know about the CREDIT MUTUEL trademark.

Indeed, given the fact that the Complainant's trademarks are well known in the banking services, the Respondent cannot credibly claim to have been unaware of the existence of the previous trademarks (see section 3.2.2 of the [WIPO Overview 3.0](#)) and previous UDRP 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 section 3.1.4 of the [WIPO Overview 3.0](#)).

As for use of the disputed domain name in bad faith, given the circumstances described in the Complaint, the documentary evidence provided by the Complainant, and the brief verification carried out by the Panel of the website associated with the disputed domain name, the Panel is satisfied that the disputed domain name is used in bad faith.

Indeed, the Complainant provided evidence that the website to which the disputed domain name resolves to a website flagged by Internet browser as “suspicious”.

Taking into account all of the above, it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate.

Therefore, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, paragraph 4(a)(iii).

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, <aide-credit-mutuelle.com> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: April 26, 2023