

ADMINISTRATIVE PANEL DECISION

Confédération Nationale du Crédit Mutuel v. Bruno Debut
Case No. D2022-0511

1. The Parties

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

The Respondent is Bruno Debut, Benin.

2. The Domain Name and Registrar

The disputed domain name <mutualcrdtbk.com> (the “Domain Name”) is registered with Instra Corporation Pty Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2022. On February 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 18, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on February 18, 2022, 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 18, 2022.

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 February 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 15, 2022.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on March 22, 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

Confédération Nationale du Crédit Mutuel, the Complainant in the present proceedings, is the central body for Crédit Mutuel – a French banking and insurance services group. Crédit Mutuel has a network of 3,178 offices in France and provides its services to 12 million clients.

The Complainant is the owner of numerous CREDIT MUTUEL trademark registrations, including:

- French Trademark Registration No. 1475940, CREDIT MUTUEL, registered on July 8, 1988;
- French Trademark Registration No. 1646012, CREDIT MUTUEL, registered on November 20, 1990;
- European Union Trademark Registration No. 016130403, CREDIT MUTUEL, registered on June 1, 2017.

The Complainant also owns numerous domain names incorporating its CREDIT MUTUEL Trademark, including the domain names <creditmutuel.com> and <creditmutuel.fr>.

The Domain Name was registered on January 20, 2022.

According to the screenshots attached to the Complaint, as of January 26, 2022, the Domain Name resolved to a website offering banking services, including loans and credits, to Internet users (the “Website”). At the time of submission of the Amended Complaint, the Domain Name resolved to a parking page. As of the day of this Decision, the Domain Name 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 either identical or confusingly similar to the 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 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

A. 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 several valid CREDIT MUTUEL Trademark registrations. The Domain Name consist of the misspelling of this trademark. In the word MUTUEL the letter “E” has been replaced by the letter “A”, while in the word “CREDIT” the letters “E” and “I” have been deleted. The order of the words “CREDIT” and “MUTUEL” have been altered in the Domain Name. Then, additional letters “B” and “K” have been added, which can be associated with the term “bank”.

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 [WIPO Overview 3.0](#), section 1.9.

Moreover, the content of the website associated with the domain name is usually disregarded by panels when assessing confusing similarity. However, in some instances, panels have taken note of the content of the website associated with a domain name to confirm confusing similarity whereby it appears *prima facie* that the respondent seeks to target a trademark through the disputed domain name. See [WIPO Overview 3.0](#), section 1.15.

In the present case, from the evidence presented by the Complainant results that the Domain Name resolved previously to the Website offering alleged banking services to Internet users, which are the core of the Complainant’s business. Thus, the Respondent clearly sought to target the Complainant’s CREDIT MUTUEL Trademark through the Domain Name.

The generic Top-Level Domain (“gTLD”) “.com” in a domain name is viewed as a standard registration requirement and as such is typically disregarded under the first element. See [WIPO Overview 3.0](#), section 1.11.1.

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

B. 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.

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

(a) before any notice of the dispute, that it has used or 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; or

(b) that it has been commonly known by the domain name, even if it has not acquired any trademark or service mark rights; or

(c) that it is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

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 the Complainant holds several CREDIT MUTUEL Trademark registrations, which predate the Respondent's registration of the Domain Name. There is no evidence in the case file that the Complainant has licensed or otherwise permitted the Respondent to use CREDIT MUTUEL Trademark or to register the Domain Name incorporating this trademark. 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 case file that the Respondent is making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain. On the contrary, the Respondent used the Domain Name for the purpose of offering Internet users alleged banking services, including credits and loans. Such use of the Domain Name certainly does not constitute a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain.

Thus, the Complainant has proved the requirement under paragraph 4(a)(ii) of the Policy.

C. 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 [WIPO Overview 3.0](#), section 3.1. Under paragraph 4(b) of the Policy, evidence of registration and use in bad faith 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 the complainant who is the owner of a trademark or to a competitor of that 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 was 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 the complainant's 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 CREDIT MUTUEL Trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration of the Domain Name. This is supported by the type of service offered on the Website, which is identical with the service offered by the Complainant. Also, it has been proven to the Panel's satisfaction that the Complainant's CREDIT MUTUEL Trademark is well-known and unique to the Complainant. Thus, the Respondent could not likely reasonably ignore the reputation of the Complainant's trademark.

Moreover, the Domain Name is being used in bad faith by the Respondent. The Panel reiterates that the Domain Name resolved to the Website offering alleged banking services, including credits and loans, to Internet users. The Panel accepts that by reproducing intentionally misspelled CREDIT MUTUEL Trademark in the Domain Name, as well as displaying this trademark on the Website, the Respondent intended to earn profit from the likelihood of confusion created with Internet users.

Furthermore, the Panel notes that the Domain Name could be used by the Respondent to perpetuate a phishing scam on Internet consumers. The Respondent was able to collect, through the personal identification portal available on the Website, personal data of Internet users including banking details and identification passwords.

In sum, the Panel finds that the evidence in the record demonstrates that the Respondent registered and used the Domain Name deliberately in order to take advantage of the Complainant's reputation and to give credibility to its own operations.

The Panel notes that at the time of submitting the Amended Complaint, the Domain Name resolved to a parking page. 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 *Nov 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 requirement 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 <mutualcrdtbk.com> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: March 23, 2022