

ADMINISTRATIVE PANEL DECISION

Confédération Nationale du Crédit Mutuel-CNCM v. Privacy service provided by Withheld for Privacy ehf / Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2022-3074

1. The Parties

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

Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

The disputed domain name <creditmutuel.com> (hereinafter the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 19, 2022. On August 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 19, 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 August 23, 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 August 24, 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 August 26, 2022. In accordance with the Rules, paragraph 5, the due

date for Response was September 15, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 20, 2022.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on October 5, 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

Complainant is the political and central body of the Credit Mutuel banking group. Complainant has over 830,000 salaried staff, 21,000 directors, and Complainant provides its financial services to 36.1 million customers. Complainant's Credit Mutuel banking group is a major actor in the French banking and insurance market with 3178 offices in France. Complainant owns multiple trademark registrations for the mark CREDIT MUTUEL in France and abroad. Of relevance to this proceeding are an European Union nominal trademark registration for CREDIT MUTUEL (Reg. No. 18130616) (Registered September 30, 2019), and two French nominal trademarks for CREDIT MUTUEL (Reg. Nos. 1475940 and 1646012) (Registered July 8, 1988 and November 20, 1990 respectively) (the "Mark"). Complainant also owns the domain names <creditmutuel.com>, <creditmutuel.org>, <creditmutuel.fr>, <creditmutuel.info>, and <creditmutuel.net>.

Respondent registered the Disputed Domain Name on February 4, 2022, long after Complainant registered its CREDIT MUTUEL mark. The webpage associated with the Disputed Domain Name resolves currently resolving to various content that may change depending on the browser that is used or the security parameters of the user's Internet connection. According to evidence in the Complaint, the Disputed Domain Name has previously resolved to a website promoting the browser extension "Flowsurf," a succession of dialog boxes that appear with a cascade effect thereby seeming to be a computer virus, and "adult-oriented" content. Most recently, the Disputed Domain Name resolved to a webpage featuring pay-per-click ("PPC") advertisements for loans services—services competitive with Complainant's banking and insurance services.

5. Parties' Contentions

A. Complainant

Complainant contends that the Disputed Domain Name is confusingly similar to its CREDIT MUTUEL mark, as the Disputed Domain Name incorporates the entirety of the Mark, only containing an intentional misspelling – inserting the letter "a" between the letters "e" and "d" in the word CREDIT in the Mark. Complainant alleges this is a prime example of typosquatting, which is generally considered evidence that a domain name is confusingly similar to a complainant's mark.

Next, Complainant states that Respondent has no rights or legitimate interests in the Disputed Domain Name. According to Complainant, the French Ministry Order No. 58-966 of October 16, 1958, reserves the use of the CREDIT MUTUEL mark exclusively for Complainant and to its related branches, and Complainant has not authorized Respondent to use the Mark. Complainant also points to a prior UDRP decision in which the panel held that a respondent did not have rights or legitimate interests in a domain name incorporating the CREDIT MUTUEL mark. See *Confédération Nationale du Crédit Mutuel v. Simo Madridoxi*, WIPO Case No. [D2012-0813](#).

Finally, Complainant alleges that Respondent registered and continues to use the Disputed Domain Name in bad faith. Complainant contends that its Mark is well-known and that this notoriety creates a *prima facie* presumption that Respondent registered the Disputed Domain Name for the purpose of selling the Disputed Domain Name to Complainant or one of its competitors. Complainant further claims that because the

Disputed Domain Name resolves to varying content, including PPC links and adult content, such use of the Disputed Domain Name tarnishes Complainant's Mark and brand. Complainant states that as a banking group, it has a duty to protect to its clients from counterfeiting and fraud, and the Disputed Domain Name is a prime example of such fraud it must counteract.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that Complainant's trademark registrations establish that it has rights in the CREDIT MUTUEL mark. The Panel further finds that the Disputed Domain Name is confusingly similar to Complainant's Mark. Respondent's addition of a letter – an "a" between the letters "e" and "d" – is an example of an intentional misspelling of a trademark that results in a domain name that is confusingly similar to the Mark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.9; see also, e.g., *Actelion Pharmaceuticals, Ltd v. Whois Agent, Whois Privacy Protection Service, Inc / Jean-Paul Clozel*, WIPO Case No. [D2016-0068](#) (finding <acteli0n.com> confusingly similar to the ACTELION mark); and *Novartis AG v. Whois Agent (651421573), Whois Privacy Protection Service, Inc. / Wis Inc, WIS INC*, WIPO Case No. [D2021-1521](#) (finding <consentyx.com> confusing similar to the COSENTYX mark).

B. Rights or Legitimate Interests

Complainant has presented a *prima facie* case for Respondent's lack of rights or legitimate interests in the Disputed Domain Name, which Respondent has not rebutted. Complainant has not authorized Respondent to use its trademark. Respondent also has not answered this Complaint and there is no evidence or reason to suggest Respondent is, in fact, commonly known by the Disputed Domain Name or that Respondent is using the Disputed Domain Name in connection with a *bona fide* offering of goods or services. Furthermore, typosquatting is evidence of a lack of rights or legitimate interests in the Disputed Domain Name. See *Redbox Automated Retail, LLC d/b/a Redbox v. Milen Radumilo*, WIPO Case No. [D2019-1600](#).

Additionally, Complainant has credibly alleged that Respondent uses the Disputed Domain Name for generating revenue by using PPC services while taking advantage of Complainant's trademark notoriety. This cannot be considered as a *bona fide* offering of goods or services or a noncommercial use. Likewise, the Disputed Domain Name's redirection to an adult content website is never considered a fair or *bona fide* use of a domain name. See, e.g., *Andrey Ternovskiy dba Chatroulette v. Protection of Private Person / Aleksandr Katkov*, WIPO Case No. [D2017-0381](#) (finding the respondent's use of the domain name <chatroulletelolz.com> to redirect Internet users to pornographic websites "should and could not be considered a *bona fide* offering of goods or services"); see also *Bayerische Motoren Werke AG v. shilin Li*, WIPO Case No. [D2021-1573](#) (finding no *bona fide* offering of goods or services or legitimate noncommercial or fair use where "[r]espondent is currently using the disputed domain name on a webpage featuring pornographic and gambling content").

The Panel finds that Respondent does not have rights or a legitimate interests in the Disputed Domain Name and that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent registered and used the Disputed Domain Name in bad faith. First, typosquatting, such as the addition of a letter, is evidence that Respondent was aware of and sought to impersonate Complainant when it registered the Disputed Domain Name. See, e.g., *Redbox Automated*

Retail, LLC d/b/a Redbox v. Milen Radumilo, supra. Second, the use of a domain name to tarnish a complainant's trademark, including redirection to web pages featuring pornographic content, constitutes evidence of a respondent's bad faith. See [WIPO Overview 3.0](#), section 3.12. See, e.g. *Red Bull GmbH v. Whois Agent, Domain Protection Services, Inc. / esco escortlar, escort sitesi*, WIPO Case No. [D2017-1639](#) (finding the respondent's use of the domain for a pornographic website constituted "a strong indication of bad faith registration and use," because it showed respondent's main purpose was "to create a likelihood of confusion among customers and/or to tarnish the Complainant's RED BULL trademark for commercial gain or any other illegitimate benefit"). Third, the use of the Disputed Domain Name for commercial purposes, namely to obtain click-through revenue associated with PPC links for related banking services also establishes that Respondent registered and continues to use the Disputed Domain Name in bad faith. See *Wal-Mart Stores Inc. v. Frank Warmath*, WIPO Case No. [DTV2008-0013](#) ("When a domain name incorporating a famous mark is used to attract Internet traffic to fuel click-through revenues which trade on the reputation of that mark, a conclusion of bad faith registration and use under paragraph 4(a)(iii) of the Policy is unavoidable.");

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 Name, <creditmutuel.com>, be transferred to Complainant.

/Lawrence K. Nodine/

Lawrence K. Nodine

Sole Panelist

Date: October 19, 2022