

ADMINISTRATIVE PANEL DECISION

Confédération Nationale du Crédit Mutuel v. Andrea Quan
Case No. D2022-0094

1. The Parties

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

The Respondent is Andrea Quan, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <paycreditmutuel.com> is registered with Wild West Domains, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2022. On January 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 14, 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 19, 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 January 21, 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 January 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2022. The Respondent did not submit any Response. Accordingly, the Center sent the notification of the Respondent’s default on February 22, 2022.

The Center appointed Petra Pecar as the sole panelist in this matter on March 15, 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

The Complainant, Confédération Nationale du Crédit Mutuel, is the political and central body for the banking group “Credit Mutuel”, which is registered under the laws of France on July 1, 1901. The Complainant is the second French banking and insurance services group, which provides its services to 12 million clients for more than a century. The Complainant’s banking group Credit Mutuel represents a network of 3178 offices in France, congregated in 18 regional federations. The Complainant is operating its web portals under the domain names <creditmutuel.com> and <creditmutuel.fr>, which are dedicated to promotion of its online and offline services and provision of information on various financial services.

The Complainant is the owner of several CREDIT MUTUEL trademarks, including the following:

- European Union word Trade Mark CREDIT MUTUEL, registration No. 18130616, registered on September 2, 2020, in Classes 07, 09, 16, 35, 36, 38, 41 and 45 of the Nice classification;
- European Union figurative Trade Mark CREDIT MUTUEL, registration No. 16130403, registered on June 01, 2017 in Classes 07, 09, 16, 35, 36, 38, 41 and 45 of Nice classification;
- European Union figurative Trade Mark CREDIT MUTUEL, registration No. 18130619, registered on May 22, 2020 in Classes 07, 09, 16, 35, 36, 38, 41 and 45 of Nice classification;
- French word mark CREDIT MUTUEL, registration No. 1475940, filed on August 7, 1988 and duly renewed, in Classes 35 and 36 of Nice classification and
- French word mark CREDIT MUTUEL, registration No. 1646012, filed on November 20, 1990 and duly renewed, in Classes 16, 35, 36, 38 and 41 of Nice classification.

The Complainant also holds a number of domain names that reflect its CREDIT MUTUEL trademark, such are the following domain names:

- <creditmutuel.info> registered on September 13, 2001;
- <creditmutuel.org> registered on June 3, 2002;
- <creditmutuel.fr> registered on August 10, 1995;
- <creditmutuel.com> registered on October 28 1995;
- <creditmutuel.net> registered on October 3, 1996;
- <paiement-credit-mutuel.com> registered on March 5, 2014;
- <paiement-credit-mutuel.fr> registered on December 3, 2013 and
- <paiementcreditmutuel.fr> registered on March 18, 2017.

The disputed domain name <paycreditmutuel.com> was registered on December 16, 2021.

At the time the Complaint was filed, the disputed domain name resolved to “403 Forbidden” webpage.

5. Parties’ Contentions

A. Complainant

The Complainant submits that the disputed domain name is confusingly similar to the Complainant’s CREDIT MUTUEL trademarks. The second-level domain of the disputed domain name consists of the Complainant’s CREDIT MUTUEL trademark preceded by the descriptive word “pay”. However, the Complainant’s CREDIT MUTUEL trademark remains the distinctive and dominant element of the disputed domain name. The Complainant argues that the use of its trademark in its entirety is sufficient to establish that a domain name is confusingly similar to a mark in which the Complainant has rights.

The Complainant further contends that the Respondent has no rights or legitimate interests in respect to the disputed domain name.

There is no license or authorization given to the Respondent to register this disputed domain name and there is no known relationship of any kind between the Complainant and the Respondent that could justify such registration and use of the disputed domain name. The Respondent is also not commonly known by the disputed domain name or by any combination of the terms “pay credit mutuel”.

Finally, the Complainant argues that the disputed domain name is registered and is being used in bad faith. In particular, the Respondent must have been aware of the Complainant and its CREDIT MUTEL trademark at the time of registration of the disputed domain name given the well-known status of this trademark. The Respondent is also not making any good faith use of the disputed domain name in accordance with well-established doctrine of passive holding.

B. Respondent

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

6. Discussion and Findings

Even if the Respondent did not file a Response to the Complainant’s contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainant.

“A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”, as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used by the Respondent in bad faith.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.2.1).

In the present case, the Panel finds that the Complainant has established its rights in the CREDIT MUTUEL marks based on numerous trademark registrations, in particular in France and European Union.

The mere fact that disputed domain name wholly incorporates a Complainant’s trademark may be sufficient to establish confusing similarity for the purpose of the Policy, despite the addition of another term. In the case at hand, the additional term “pay” do not prevent a finding of confusing similarity. Additional terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) do not prevent a finding of confusing similarity, as noted in section 1.8 of the [WIPO Overview 3.0](#).

Furthermore, it is well accepted practice by UDRP panels that a generic Top-Level Domain (“gTLD”), such as “.com”, is typically ignored when assessing whether a domain name is identical or confusingly similar to a

trademark (see section 1.11 of the [WIPO Overview 3.0](#)). For that reason, the Panel accepts not to take gTLD “.com” when assessing confusing similarity of the disputed domain name. Taking into account all of the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s CREDIT MUTUEL trademarks.

Accordingly, the Panel finds that the Complainant has satisfied the first requirement that the disputed domain name is identical or confusingly similar to the Complainant’s registered trademark, under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under the second element of the Policy, a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence to rebut that presumption. If the respondent fails to do so, a complainant is generally deemed to have satisfied the second element, as set out in paragraph 4(a)(ii) of the Policy (see also [WIPO Overview 3.0](#), section 2.1).

The Respondent failed to provide any evidence of authorization to use the CREDIT MUTUEL trademarks or to register a domain name containing CREDIT MUTUEL trademark.

Based on the Complaint, it appears that the Respondent has no connection or affiliation with the Complainant, who has not licensed or otherwise authorized the Respondent to use or apply for any domain name incorporating the Complainant’s trademarks. By failing to provide its Response to the Complaint, the Respondent has also failed to provide any facts or elements that can evoke prior rights or legitimate interests in the disputed domain name. The Respondent also appears not to make any legitimate use of the disputed domain name in relation with noncommercial activities or any other *bona fide* activities.

The Panel finds that the nature of the disputed domain name, which consists of the Complainant’s CREDIT MUTUEL trademark and of the additional term “pay”, strongly indicates the affiliation with the Complainant in the eyes of third parties and for that reason a fair use cannot be constituted when the disputed domain name effectively impersonates or suggests to the Complainant as the mark owner (see section 2.5.1 of the [WIPO Overview 3.0](#)).

Based on the above, the Panel finds that the second element of paragraph 4(a)(ii) of the Policy has been met by the Complainant.

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires the Complainant to demonstrate that the Respondent registered and is using the disputed domain name in bad faith. [WIPO Overview 3.0](#), section 3.1, states that “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”.

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent’s documented out-of-pocket costs directly related to the domain name; or

(ii) circumstances indicating that the respondent registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The fact that the disputed domain name comprises a combination of the Complainant's CREDIT MUTUEL trademark and the word "pay" which is closely associated with the Complainant's activities, reflects that the Respondent is very familiar with the Complainant and its CREDIT MUTUEL trademark. With regard to the bad faith at the time of registration, the Panel notes that it is not likely that the Respondent was not aware of the Complainant and its CREDIT MUTUEL trademark. On the contrary, the Panel finds that it is likely that the Respondent was aware of the Complainant and its rights and reputation in the CREDIT MUTUEL trademark at the time the disputed domain name was registered. Therefore, the Panel holds that the disputed domain name was registered in bad faith.

The disputed domain name resolves to "403 Forbidden" webpage. The fact that there is no active website associated with the disputed domain name does not prevent a finding of bad faith use and registration. In that sense, the Panel has made an assessment as to whether the lack of actual use of the disputed domain name can lead to a finding of bad faith against the Respondent. The doctrine of so-called "passive holding" where a disputed domain name resolves to a blank, "coming soon", or similar page has been considered by numerous panels previously. In accordance with section 3.3 of the [WIPO Overview 3.0](#), the relevant factors that should be taken into account when assessing the existence of bad faith in the passive holding of a domain name are the following: (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 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. It should be also borne in mind that it is not required that all the above-listed factors be present in order to establish bad faith use of the disputed domain name.

In the case at hand, the Panel is of the opinion that many factors described in section 3.3 of the [WIPO Overview 3.0](#) are present to some extent. In particular, the Complainant's CREDIT MUTUEL trademark should be observed as a trademark that is sufficiently distinctive and that enjoys certain level of reputation; the Respondent has failed to provide any response to the Complaint and has therefore failed to provide any justification for the registration and use of the disputed domain name; it seems rather unlikely that even if the disputed domain name was put to actual use, such use would be in good faith. Based on the foregoing reasons, the Panel finds that the passive holding of the disputed domain name in the present case should be observed as use in bad faith.

The Panel concludes that the disputed domain name was registered and used in bad faith and that consequently, the Complainant has satisfied 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 disputed domain name, <paycreditmutuel.com>, be transferred to the Complainant.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: March 29, 2022