

## **ADMINISTRATIVE PANEL DECISION**

Confederation Nationale Du Credit Mutuel v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Feber Purba, Payor  
Case No. D2022-2692

### **1. The Parties**

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

The Respondent is Domain Admin, Privacy Protect, LLC (PrivacyProtect.org), United States of America / Feber Purba, Payor, Indonesia.

### **2. The Domain Name and Registrar**

The disputed domain name <fo-credit-mutuel.com> is registered with Hostinger, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 22, 2022. On July 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 25, 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 July 29, 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 amendment to the Complaint on August 1, 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 the Respondent of the Complaint, and the proceedings commenced on August 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 9, 2022.

The Center appointed Clive Duncan Thorne as the sole panelist in this matter on September 26, 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 is the political and central body for the French banking group Credit Mutuel. The Complainant is one of the biggest French banking and insurance groups. It provides its services to 12 million clients and has serviced its clients for more than a century.

It has a network of 3,178 offices in France, congregated in 18 regional federations. It has a presence in all financial fields and is a major player in the market for banking services for both individuals and businesses.

It operates a web portal under the domain names “www.creditmutuel.com” and “www.creditmutuel.fr”. Specifically the website “www.creditmutuel.fr” offers online banking services to the Complainant’s clients who can, once connected through personal access, manage their account online through this website.

The Complainant is the registered owner of a large number of trade marks consisting of or including the words “CREDIT MUTUEL”. These include;

- i. CRÉDIT MUTUEL European Union Trade Mark (“EUTM”) 18130616 registered on September 2, 2020, in Classes 7,9,16,35,36,38,41 and 45.
- ii. CREDIT MUTUEL EUTM figurative mark 16130403 registered on June 1, 2017, in Classes 7,9,16,35,36,38,41 and 45.
- iii. CREDIT MUTUEL EUTM figurative mark 18130619 registered on September 30, 2019, in Classes 7,9,16,35,36,38,41 and 45.
- iv. CREDIT MUTUEL LA BANQUE A QUI PARLER EUTM figurative mark 5146162 registered on June 19, 2006, in Classes 9,16,35,36,38,41 and 45.
- v. CREDIT MUTUEL French semi-figurative trade mark 1475940 registered on July 8, 1988, in Classes 35 and 36.
- vi. CREDIT MUTUEL French semi-figurative trade mark 1646012 registered on November 20, 1990, in Classes 16,35,36,38 and 41.

The Complainant’s trademark CREDIT MUTUEL is also registered as generic Top-Level Domain (“gTLD”) and country code Top-Level Domain (“ccTLD”) domain names. The Complainant submitted to the Center exhibited copies of the domain names including <creditmutuel.com>, <creditmutuel.net>, <creditmutuel.org>, <creditmutuel.info> and <creditmutuel.fr>.

All of the above trade marks and domains names predate the date of registration of the disputed domain name on May 20, 2022. According to the evidence in the Complaint, the disputed domain name resolves to a webpage displaying a suspension warning (“This Account has been suspended”).

The Complainant refers to three earlier WIPO panel decisions in UDRP complaints in which previous panels have found the trade mark CREDIT MUTUEL to be well known.

These include *Confederation Nationale du Credit Mutuel v Philippe Marie*, WIPO Case No. [D2010-1513](#) in which that panel found the trade mark CREDIT MUTUEL to be well known and *Confederation Credit*

*Nationale ./.George Kershner*, WIPO Case No. [D2006-0248](#) in which that panel found; “The complainant is well-known in the fields of banking and insurance services, at least in France”.

The Complainant exhibits a French Ministry Order No.58-966 of October 17, 1958, which provides that the use of the wording CREDIT MUTUEL is reserved to the Complainant and its related branches.

In the absence of a Response the Panel finds the above evidence relating to the Complainant, its trading activities and its trade mark rights to be true.

## 5. Parties’ Contentions

### A. Complainant

The Complainant submits;

- i. On the evidence the disputed domain name is confusingly similar to the trade mark CREDIT MUTUEL in which the Complainant has prior rights;
- ii. There is no evidence that the Respondent has any rights or legitimate interests in respect of the disputed domain name;
- iii. On the evidence the Respondent has registered and is using the disputed domain name in bad faith. In particular the Complainant has established evidence demonstrating that the mark CREDIT MUTUEL is well known and relies upon the *prima facie* presumption that the disputed domain name was registered to attract for commercial gain users to its website by creating a likelihood of confusion with the Complainant’s mark.
- iv. On the evidence the disputed domain name resolves to a website displaying a suspension warning which evidenced that the aim of the Respondent was to generate out of pocket profits from its “parasitic” use of the Complainant’s mark.

### B. Respondent

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The disputed domain name consists of the words “credit mutuel” preceded by the letters “fo” separated by a hyphen. The disputed domain name reproduces the Complainant’s trademark in its entirety.

The Complainant points out, based on established authority, that when a domain name wholly incorporates a complainant’s registered mark that is sufficient to establish identity or confusing similarity for the purposes of the Policy. The Panel agrees with the Complainant’s contention. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”).

In a previous UDRP decision *Confederation nationale du credit mutuel v Iloris Croce*, WIPO Case No. [D2018-0275](#) the panel found that the use of “w3” in front of “credit-mutuel” did not prevent the finding of confusingly similarity between the disputed domain name and the complainant’s mark. That is also the position in this case.

This Panel following previous UDRP decisions finds that the addition of the prefix “fo” and the hyphen does not prevent the finding of confusingly similarity between the disputed domain name and the Complainant’s

mark CREDIT MUTUEL. The addition of other terms would not prevent a finding of confusing similarity under the first element. See section 1.8 of the [WIPO Overview 3.0](#).

Moreover, section 1.11.1 of the [WIPO Overview 3.0](#) states that the TLD, in this case, “.com”, should usually be disregarded for the purpose of deciding confusing similarity.

Accordingly the Panel finds that the disputed domain name is confusingly similar to the trade mark CREDIT MUTUEL in which the Complainant has rights within paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

The Complainant submits that in the absence of a Response and evidence of rights or legitimate interests in respect of the disputed domain name the Respondent should be considered as having no such rights.

The Complainant points out;

- i. There is no license or authorization entitling the Respondent to register the disputed domain name;
- ii. There is no known agreement of any kind between the Complainant and Respondent justifying registration and use of the disputed domain name by the Respondent;
- iii. The Respondent is not commonly known by the disputed domain name or by any combination of the terms “Credit Mutuel” or “fo Mutuel Credit”.

It is well established that in circumstances where a complainant establishes a *prima facie* case under the second element the burden of production shifts to the respondent to produce evidence of rights and legitimate interests in the domain name and if the respondent fails to do so the complainant will succeed in establishing that the respondent has no rights or legitimate interests.

The Complainant cites a previous UDRP decision, *Confederation Nationale du Credit Mutuel v. WhoisGuard Protected, Whoisguard, Inc. / Daniel Kent*, WIPO Case No. [D2019-2477](#), in which it was also the Complainant, and in which in similar circumstances as in this complaint it successfully established lack of rights or legitimate interests.

In this case there is no evidence from the Respondent to rebut the *prima facie* case of lack of rights or legitimate interest in the disputed domain name which has been established by the Complainant.

Moreover, the Panel finds that the disputed domain name (composed primarily of the Complainant’s trademark) is inherently misleading. See section 2.5.1 of the [WIPO Overview 3.0](#).

Accordingly the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

## **C. Registered and Used in Bad Faith**

In support of its submission that the disputed domain name was registered in bad faith the Complainant relies upon its evidence and which it has also shown in previous decisions to demonstrate the strong reputation and the well-known character of its trade mark CREDIT MUTUEL which it has established over many years of use.

The Complainant submits that the Respondent deliberately chose the disputed domain name which reproduces the mark CREDIT MUTUEL in its entirety because the Respondent knew the mark because of its reputation and the fact that it was well known. The Complainant cites an earlier panel decision in which the Complainant was also the complainant; *Confederation Nationale du Credit Mutuel v. Suarer Anternio*, WIPO Case No. [D2021-2140](#).

Following previous authority, the Panel notes that UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a 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](#).

Following UDRP precedent and on the evidence in this case the Panel finds that the disputed domain name was registered in bad faith.

In support of its submission that the disputed domain name has been used in bad faith the Complainant relies upon the evidence to the Complaint which shows that the disputed domain name is configured with MX and SPF records. The consequence of this is that the Respondent was capable of sending emails using the disputed domain name which the recipient would reasonably assume was sent from the Complainant. The settings are characteristic of “phishing” activity. The Complainant points out that fraudsters frequently target the customers of banks such as itself.

According to the evidence, in May 2022 the disputed domain name activated a webpage promoting a Paypal account top-up service named <Payor.id>. This is shown at annexes H1 and H2 to the Complaint. The Complainant submits that this evidence shows that the Respondent intended to generate out of pocket profits from a “parasitic” use of the Complainant’s well-known mark.

The Complainant exhibits a screenshot dated July 21, 2022 which states; “This Account has been suspended. Contact your hosting provider for more information”. It submits that this is evidence that the Respondent is currently using the disputed domain name passively and that the Respondent has no serious intention to use the disputed domain name other than to sell it to the Complainant, its competitors or to third parties having fraudulent intentions.

In the Panel's view there is sufficient evidence to show evidence of bad faith use as a result of the Respondent’s potential use of the disputed domain name in “phishing” activity, the activation of the web page promoting a Paypal account and the inactive or suspended website at the disputed domain name.

The Panel also takes into account the Complainant’s strong reputation in its mark CREDIT MUTUEL which is well known and the fact that the Respondent has provided no evidence, by way of response, of any actual or contemplated good faith use. The Panel also takes into account the composition of the disputed domain name, which effectively impersonates or suggests sponsorship or endorsement by the Complainant.

The Panel therefore finds that the disputed domain name was registered and used by the Respondent in bad faith within 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, <fo-credit-mutuel.com>, be transferred to the Complainant.

*/Clive Duncan Thorne/*

**Clive Duncan Thorne**

Sole Panelist

Date: October 7, 2022