

## **ADMINISTRATIVE PANEL DECISION**

Sicredi Participações S.A. v. Rafael Pereiaska  
Case No. D2023-5272

### **1. The Parties**

The Complainant is Sicredi Participações S.A., Brazil, represented by Silveiro Advogados, Brazil.

The Respondent is Rafael Pereiaska, United States of America ("United States")

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

The disputed domain name <sicredi.chat> is registered with NameSilo, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 19, 2023. On December 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 19, 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 (PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 20, 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 December 22, 2023.

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 December 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 17, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on January 23, 2024. 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 following facts are undisputed.

The Complainant is one of the largest cooperative financial institutions in Brazil, with over 4 million members across the country and BRL 96.7 billion in assets.

The Complainant is the owner of multiple trademark registrations for SICREDI in Brazil, including, for example, Brazil trademark registration No. 814022499 for SICREDI (word mark), registered on August 29, 1989, for services in class 41. On June 7, 2023, the Complainant received a Trademark Clearinghouse notice informing that the disputed domain name was registered by a third party.

The Complainant is also the registrant of the domain name <sicredi.com.br>, which resolves to its official website.

The Complainant's Trademarks were registered before the disputed domain name, which was registered on June 6, 2023. The disputed domain name does not resolve to any active website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that it exercises permanent control against illicit use of its assets, preventing unauthorized utilization of its trademarks by third parties, including in the digital environment.

Furthermore, "sicredi" is a coined term, created by the Complainant from the Portuguese expression "sistema cooperativo de crédito" ("cooperative credit system", in a direct translation to English). Therefore, the term "sicredi" has no dictionary meaning in Portuguese, English or any other language that could justify its registration and use by the Respondent.

The Complainant's good reputation in Brazil derives from more than 100 years of excellence in financial services, recognized by numerous prizes, awards, and accolades. The Complainant is present in 22 Brazilian states with over 1,600 branches.

Although the disputed domain name is not being actively used, a substantial risk remains that it could be utilized for phishing or other forms of frauds.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Complainant alleged that “sicredi” is a coined term. This was not rebutted by the Respondent. The Panel, therefore, considers that this adds to the prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel finds that prima facie there is no conceivable legitimate use of the coined term SICREDI.

Furthermore, the composition of the disputed domain name, which is identical to the Complainant’s mark, indicates a high risk of implied affiliation with the Complainant.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

On a balance of probabilities, also taking into account the notoriety of the Complainant and its marks, the Panel finds that the Respondent, more likely than not, registered and used the disputed domain name in bad faith.

In addition, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding.

Although panels will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trademark; the composition of the disputed domain name; the concealment of the Respondent's identity through a privacy service; the false contact information provided by the Respondent to the Registrar, and lastly the lack of a Response or any reasonable explanation by the Respondent as to the registration and use of the disputed domain name, finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <sicredi.chat> be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: January 29, 2024