

ADMINISTRATIVE PANEL DECISION

Credit Industriel et Commercial S.A. v. Scarlett Hoskins

Case No. D2023-1725

1. The Parties

The Complainant is Credit Industriel et Commercial S.A., France, represented by MEYER & Partenaires, France.

The Respondent is Scarlett Hoskins, Australia.

2. The Domain Name and Registrar

The disputed domain name <creditcic.org> is registered with Internet Domain Service BS Corp (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 19, 2023. On April 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 21, 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 (Domain Admin, Whois Privacy Corp.) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 21, 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 amendment to the Complaint on April 25, 2023.

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 April 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 19, 2023.

The Center appointed Antony Gold as the sole panelist in this matter on May 24, 2023. 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 a bank, established in 1859, with its head office in Paris, France. The Complainant has over 5.3 million customers and operates over 1,800 agencies in France and 37 agencies in other territories.

The Complainant is commonly known by its acronym "CIC" and it has registered a number of trademarks to protect both this trading style and its full name. These include, by way of example only;

- European Union trademark, registration number 005891411, for CIC, registered on March 5, 2008 in classes 9, 16, 35 and 36;
- French trademark, registration number 959998, for CREDIT INDUSTRIEL ET COMMERCIAL, registered on June 25, 1976 in classes 16, 35, 36, 39 and 41.

The Complainant also owns and operates the domain names <cic.fr> and <cic.eu> which resolve to websites from which its online banking services can be accessed.

The disputed domain name was registered on February 16, 2023. As at the time of filing the Complaint, it resolved to a website headed "Apache2 Ubuntu Default Page" which was described as; "[T]he default welcome page used to test the correct operation of the Apache2 server after installation on Ubuntu systems". Attempts to access any website to which the disputed domain name presently resolves generate a warning notice in the web browser; "This Connection Is Not Private. This website may be impersonating "ciccredit.org" to steal your personal or financial information. You should go back to the previous page".

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;

- the disputed domain is confusingly similar to the Complainant's CIC trademarks in that it incorporates the entirety of the Complainant's mark and simply adds the suffix "credit", which does not serve to distinguish the disputed domain name from the Complainant's mark;
- the Respondent has no rights or legitimate interests with respect to the disputed domain name. In particular, the Complainant has not granted any licence or other authorization to the Respondent to register the disputed domain name, the Respondent has never been commonly known by the disputed domain name, nor is it being used in connection with a *bona fide* offering of goods and services;
- the disputed domain name was registered and is being used in bad faith. Specifically, the disputed domain name incorporates the entirety of the Complainant's CIC trademark and was registered long after the Complainant's mark had become well-known. The confusing similarity between the disputed domain name and the Complainant's mark means that Internet users are likely to believe that the disputed domain name is associated with the Complainant. Moreover, the use which the Respondent has been making of the disputed domain name does not amount to good faith use and comprises bad faith passive holding of it.

B. Respondent

The Respondent did not reply to the Complainant's contentions

6. Discussion and Findings

Dealing, first, with the Respondent's failure to file a response to the Complaint, paragraph 14(b) of the Rules provides that if a party, in the absence of exceptional circumstances, does not comply with a provision of, or requirement under, these Rules, the Panel shall be entitled to draw such inferences from this omission as it considers appropriate.

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements in order to succeed in its Complaint: (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights; and (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 in bad faith.

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; see the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy; see the [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the entirety of the Complainant's CIC mark is reproduced within the disputed domain name and that the Complainant's mark is recognizable within the disputed domain name. Whilst the addition of the word "credit" may bear on assessment of the second and third elements, the Panel finds the addition of this term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy; see the [WIPO Overview 3.0](#), section 1.8.

Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. The Panel therefore finds that 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 by which the Respondent may demonstrate rights or legitimate interests in the disputed domain name.

While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element; see the [WIPO Overview 3.0](#), section 2.1.

Having reviewed the 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. In particular, the Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; see paragraph 4(c)(i) of the Policy, and the [WIPO Overview 3.0](#), section 2.2;
- the Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain name; see paragraph 4(c)(ii) of the Policy, and the [WIPO Overview 3.0](#), section 2.3;
- the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue; see paragraph 4(c)(iii) of the Policy, and the [WIPO Overview 3.0](#), section 2.4;
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

Additionally, the current use of the website to which the disputed domain name resolves, as described above, suggests that it may be being used for fraudulent purposes. As explained at section 12.13.1 of the [WIPO Overview 3.0](#), prior UDRP panels have held that the use of a domain name for illegal activity, including “phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud”, can never confer rights or legitimate interests on a respondent.

For the above reasons, based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith; see the [WIPO Overview 3.0](#), section 3.2.1.

Prior UDRP panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the use of the disputed domain name to resolve to a holding page in the form described above comprises bad faith passive holding. While panelists 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, (iii) the respondent’s 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; see [WIPO Overview 3.0](#), section 3.3 and also *beIN Media Group LLC v. Ahmed Khattab*, WIPO Case No. [D2022-2300](#).

Having reviewed the record, the Panel notes the reputation of the Complainant’s trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name, as at the date of filing the Complaint, in resolving to the form of web page described above, amounts to bad faith under the Policy.

Moreover, the current use of the disputed domain name, as described above, appears to involve fraudulent activity. Prior UDRP Panels have held that the use of a domain name for illegal activity including phishing, identity theft, or malware distribution, constitutes bad faith; see [WIPO Overview 3.0](#), section 3.4.

For the above reasons, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy and that the third element of the Policy has been established.

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 <creditcic.org> be transferred to the Complainant.

/Antony Gold/

Antony Gold

Sole Panelist

Date: June 7, 2023