

ADMINISTRATIVE PANEL DECISION

Credit Industriel et Commercial S.A. v. Anne Marron, absentvirtual
Case No. D2023-1798

1. The Parties

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

The Respondent is Anne Marron, absentvirtual, United States of America.

2. The Domain Name and Registrar

The disputed domain name <cicsud.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 21, 2023. On April 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 24, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 25, 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 27, 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 May 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 5, 2023.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on June 11, 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, Credit Industriel et Commercial S.A., is a French deposit bank constituted in 1859. It serves about 5.3 million clients through 1,800 agencies in France and 37 agencies abroad.

The Complainant owns several trademarks incorporating CIC, which stands for “Credit Industriel et Commercial”, in France and in the European Union, *e.g.*

- French trademark No. 1358524, C.I.C., registered on June 10, 1986;
- European Union Trade Mark No. 005891411, CIC, registered on March 5, 2008;
- European Union Trade Mark No. 11355328, CIC, registered on March 26, 2013.

The Complainant registered several domain names, such as <cic.fr> resolving to the website through which its clients can be informed about the services offered by the group and also get online access to their bank accounts for managing them thanks to a specific secured interface.

The disputed domain name was registered on February 14, 2023, and currently directs to a blank page with an image displaying the message “Site Under Construction” pasted in the middle of the page.

5. Parties’ Contentions

A. Complainant

The Complainant asserts that each of the elements enumerated in paragraph 4(a) of the Policy and the corresponding provisions in the Policy have been satisfied. In particular, the Complainant asserts that:

(1) the disputed domain name is confusingly similar to its CIC trademark in which the Complainant has rights. The disputed domain name contains the trademark CIC in its entirety. The Complainant is the owner of numerous CIC prior registered trademarks and domain names. The Complainant trademarks are well-known in France and worldwide. The disputed domain name reproduces identically the Complainant’s CIC trademarks with the mere addition of the term “sud” translated from French into “south” used as a geographical term which cannot distinguish the disputed domain name from the trademark CIC of the Complainant. The generic Top-Level Domain (“gTLD”) “.com” might be disregarded;

(2) the Respondent has no right or legitimate interests in respect of the disputed domain name. The Complainant has never given any authorization or permission to the Respondent to register or use its trademarks CIC. The Respondent is not in any way related to the Complainant. It is not an authorized distributor and it does not carry out any activity for or has any business with it. The Respondent is not commonly known by the disputed domain name. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name currently directs to a blank page with an image displaying the message “Site Under Construction” pasted in the middle of the page;

(3) the disputed domain name was registered and is being used in bad faith. The Complainant CIC prior trademarks and domain names were registered many years before the disputed domain name was registered and are well-known in France and abroad. The Complainant is widely known to the public under the name “cic”. When searching “cic sud” on Google, the first page results all refer to the Complainant and

especially its affiliate CIC Sud Ouest. The mere fact that most of the results refer to an affiliate of the Complainant of which the name is entirely reproduced in the disputed domain name is another evidence that the Respondent registered the disputed domain name in bad faith. The Complainant also contends that this visible non-use of the disputed domain name constitutes bad faith use as passive holding.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complaint.

Moreover, the Panel has taken note of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

According to paragraph 4(a)(i) of the Policy it should be established that the disputed domain name is identical or confusingly similar to a mark in which the complainant has rights.

The Panel confirms that for the purposes of paragraph 4(a)(i) of the Policy the Complainant has satisfied the threshold requirement of having relevant trademark rights for CIC in jurisdictions throughout the world.

The disputed domain name contains the Complainant's trademark CIC in its entirety. Prior UDRP panels have recognized that confusing similarity is established for purposes of the Policy where a disputed domain name incorporates the complainant's trademark in its entirety. See [WIPO Overview 3.0](#), section 1.7.

The addition of the term "sud" does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

The gTLD ".com" may be disregarded for purposes of comparison under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1.

For all of the above-mentioned reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademark and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Complainant's un rebutted evidence establishes that its CIC trademark was registered and is well-known within its industry prior to registration of the disputed domain name. The disputed domain name is confusingly similar to the Complainant's trademarks and the Complainant has certified that the Respondent is unauthorised by it.

The Complainant has submitted that the Respondent is neither affiliated with the Complainant in any way nor has it been authorized by the Complainant to use and register the disputed domain name, that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Respondent has not made and is not making a legitimate noncommercial or fair use of the disputed domain name and is not commonly known by the disputed domain name in accordance with paragraph 4(c)(ii) of the Policy.

As already stated, the disputed domain name is not used in connection with a *bona fide* offering of good and services. On the contrary, it directs to a blank page with an image displaying the message "Site Under Construction" pasted in the middle of the page. This type of use could make users believe that the disputed domain name will redirect to an official website of the Complainant after some time. The Respondent has not explained why it chose the disputed domain name. Normally, if the Respondent has any rights or legitimate interests, the Respondent would have reasonably been expected to assert them (*42 v. New Ventures Services, Corp.*, WIPO Case No. [D2023-0159](#)). Given what is stated below in relation to bad faith, the Respondent either knew or should have known that its actions would have taken unfair advantage of the Complainant's trademarks, and the use which it has made of the disputed domain name cannot confer rights or legitimate interests.

There is thus no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain, nor any others which may confer rights or legitimate interests on the Respondent. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case.

C. Registered and Used in Bad Faith

Under the third UDRP element, the Complainant is required to prove that the disputed domain name was registered and is being used in bad faith.

The Complainant claims that the Respondent registered the disputed domain name in bad faith, and the Panel agrees.

The Complainant has previously demonstrated the strong reputation of its CIC prior trademarks in France and abroad. Therefore, it is highly improbable to the Panel that the Respondent was unaware of it at the time it registered the disputed domain name.

Furthermore, the Respondent used a privacy service to conceal its identity when registering the disputed domain name, which further supports bad faith registration. The registration and use of a domain name which is evidently connected with a famous or well-known trademark, by someone with no connection with said trademark, suggests opportunistic bad faith (see *Sanofi-aventis, Aventis Inc. v. Hostmaster, Domain Park Limited*, WIPO Case No. [D2007-1641](#)).

The disputed domain name resolves to an inactive website. It has been established in many UDRP cases that passive holding under the appropriate circumstances falls within the concept of a domain name being used in bad faith. Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be in bad faith: "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."

The Panel finds that passive holding of the disputed domain name does not in the circumstances of this case prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain name. The trademark of the Complainant is distinctive and widely used in commerce. Previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or 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](#).

Combined to the following supplemental circumstances, the Panel considers that the passive use of the disputed domain name should be considered as bad faith use:

- the disputed domain name incorporates the reproduction of the Complainant's famous trademark;
- according to this similarity and to this reputation, it is very implausible that the Respondent may use the disputed domain name in good faith given that the Complainant never gave any authorization to anyone to register the disputed domain name;
- the disputed domain name has been registered and the activation has not changed for 66 days at the time of the Complaint;
- the contact information of the Respondent is suspected to be usurped or fictitious (the postal address provided by the Registrant is known to be used for spamming activities).

The Respondent has provided no evidence of actual or contemplated good-faith use of the disputed domain name and the Panel does not find any such use plausible.

In light of the above, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith and that the Complainant has established its case 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 <cicsud.com> be transferred to the Complainant.

/Ganna Prokhorova/
Ganna Prokhorova
Sole Panelist
Date: June 25, 2023