

ADMINISTRATIVE PANEL DECISION

Confédération Nationale Du Crédit Mutuel (CNCM) v. fabrice doleac
Case No. D2023-2833

1. The Parties

The Complainant is Confédération Nationale Du Crédit Mutuel (CNCM), France, represented by MEYER & Partenaires, France.

The Respondent is fabrice doleac, France.

2. The Domain Names and Registrar

The disputed domain names <espace1-crediitmutuel.com> and <espace2-creditmutuel.com> are registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 3, 2023. On July 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 3, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 12, 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 July 17, 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 July 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 25, 2023.

The Center appointed William Lobelson as the sole panelist in this matter on September 18, 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 the political and central body of the banking group Crédit Mutuel. Crédit Mutuel is one of the largest French banking and insurance services group.

The Complainant is the registered owner of a large number of trademarks consisting of or including the wording “Crédit Mutuel”, in France and abroad.

Inter alia:

- CRÉDIT MUTUEL, French device trademark No. 1475940, registered on July 8, 1988, in classes 35 and 36;
- CRÉDIT MUTUEL, French device trademark No. 1646012, registered on July 8, 1988, in classes 35, and 36;
- CRÉDIT MUTUEL, European Union word Trade mark No. 9943135, registered on October 20, 2011, in classes 9, 16, 35, 36, 38, 41, 42, and 45; and
- CRÉDIT MUTUEL, International device trademark No. 570182, registered on May 17, 1991, in classes 16, 35, 36, 38, and 41.

The Complainant has also registered several domain names including the trademark CRÉDIT MUTUEL under generic Top-Level Domains (“gTLD”) and country code Top-Level Domain (“ccTLD”).

Thus, the Complainant and its IT-dedicated subsidiary Euro Information are respectively the holder of many domain names including, *inter alia*:

- <creditmutuel.com>, registered on October 28, 1995;
- <creditmutuel.fr>, registered on August 10, 1995;
- <creditmutuel.org>, registered on June 3, 2002;
- <creditmutuel.info> registered on September 13, 2001.

In addition, the trademark CRÉDIT MUTUEL has been recognized as well known by previous UDRP decisions, *inter alia* in *Confédération Nationale du Crédit Mutuel v. Philippe Marie*, WIPO Case No. [D2010-1513](#) in which the panel wrote “Besides, Complainant’s trademark CREDIT MUTUEL is well known”.

The disputed domain names <espace1-crediitmutuel.com> and <espace2-creditmutuel.com> were registered on June 18, 2023. None resolves to active web pages. The Complainant provided evidence that the disputed domain names <espace1-crediitmutuel.com> was previously resolving to the Complainant’s official website’s login page.

5. Parties’ Contentions

A. Complainant

The Complainant claims that the disputed domain names are confusingly similar to its earlier trademark, that the Respondent has no rights or legitimate interests in the disputed domain names, and that the disputed domain names have been registered and are being used in bad faith. The Complainant requests the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

Notwithstanding the default of the Respondent, it remains incumbent on the Complainant to make out its case in all respects under the Rules set out in paragraph 4(a) of the Policy. Namely, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (paragraph 4(a)(i));
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name (paragraph 4(a)(ii)); and
- (iii) the disputed domain name has been registered and is being used in bad faith (paragraph 4(a)(iii)).

A. Identical or Confusingly Similar

The disputed domain names are: <espace1-crediitmutuel.com> and <espace2-creditmutuel.com>.

The Complainant is the owner of trademark registrations formed with the name "Credit Mutuel".

The disputed domain names reproduce and imitate the Complainant's trademark CRÉDIT MUTUEL.

Where the relevant trademarks are recognizable within the disputed domain names, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise), in this case the terms "espace" and the figures "1" and "2", would not prevent a finding of confusing similarity under the first element; see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

And the addition of extra letters "i" and "u" to "Credit Mutuel" and the gTLD ".com" do not either prevent a finding of confusing similarity.

The minor differences between the Complainant's trademark CRÉDIT MUTUEL and the disputed domain names make the latter visually and phonetically similar to the former. This mere addition of letters or figure does nothing to distinguish the disputed domain names from the Complainant's trademark.

This practice is commonly known as typosquatting, see section 1.9 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"): "A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element."

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

To demonstrate rights or legitimate interests in a domain name, non-exclusive respondent defenses under UDRP paragraph 4(c) include the following:

- (i) before any notice of the dispute, the Respondent's use of, or 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 and services;

- (ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or
- (iii) the Respondent is 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.

The Panel notes that the Respondent has not filed a response and thus did not deny the Complainant's assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests.

The Complainant has made a *prima facie* showing that the Respondent does not have any rights or legitimate interests in the disputed domain names, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain names.

The Complainant further contends that the Respondent is not known under the disputed domain names and does not make any *bona fide* use of the same, being emphasized that the disputed domain names do not resolve towards any active web page, but only an error page.

The Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain names.

Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant claims that the Respondent has registered the disputed domain name and uses the same in bad faith, even though the said domain names do not resolve towards any active web page.

It is a consensus view among UDRP panels that, with comparative reference to the circumstances set out in paragraph 4(b) of the UDRP deemed to establish bad faith registration and use, the apparent lack of so-called active use (*e.g.*, to resolve to a website) of the domain name without any active attempt to sell or to contact the trademark holder (passive holding), does not as such prevent a finding of bad faith.

The Panel must examine all the circumstances of the case to determine whether the Respondent is acting in bad faith.

Examples of what may be cumulative circumstances found to be indicative of bad faith include the Complainant having a well-known trademark, no response to the Complaint having been filed, and the Respondent's concealment of its identity. UDRP panels may draw inferences about whether a domain name was used in bad faith given the circumstances surrounding registration.

The Complainant has substantiated the fact that its trademark CRÉDIT MUTUEL, which has been registered and used in France for years, now benefits from a high level of public's awareness. Earlier UDRP decisions have acknowledged the Complainant's trademark reputation:

Confédération Nationale du Crédit Mutuel v. Philippe Marie, WIPO Case No. [D2010-1513](#), in which the panel wrote "Besides, Complainant's trademark CREDIT MUTUEL is well known".

Confédération Nationale du Crédit Mutuel v. Mariano Jackline and Alex Leparox, WIPO Case No. [D2013-2134](#): "In view of the well-known character and the reputation of the trademark CREDIT MUTUEL in the field of banking and financial services, the Panel considers that the Respondents could not have ignored this trademark at the time they applied for the registration of the confusingly similar disputed domain names <creditmutuell.info> and <creditmutuell.org>."

Further the disputed domain names were registered using a privacy service filed anonymously, but when the identity of the Respondent was disclosed by the Registrar, it was confirmed that this individual was based in France.

The fact that the Respondent used French address implies that he is French resident or at least has connections with France, where the Complainant's mark is very well known.

Further, the registration of the disputed domain names, which differ from the well-known Complainant's trademark only because of the addition of extra letters "i", "u" and "espace 1 / 2", demonstrates the Respondent's will to select the disputed domain names which are sufficiently similar to the trademark to attract the Internet users.

The Panel observes that the word "espace" can be understood as a way for the users to access their personal account or personal space linked to the CREDIT MUTUEL.

Regarding the similarity of the disputed domain names with the trademark CRÉDIT MUTUEL, there is no way in which the disputed domain names could have been registered and then used in good faith.

The Complainant has also filed evidence that one the two disputed domain names was firstly used to resolve to a copy of the Complainant's official website's login page.

In light of the above, this Panel finds hard to believe that the Respondent did not have the Complainant's trademark in mind when he registered the disputed domain names.

The Panel also notes that the Respondent did not reply to the Complaint.

The Panel infers from the above that the Respondent acted in bad faith when he registered the disputed domain names, and still acts in bad faith.

The disputed domain names do not currently resolve to any active web page.

As stated in [WIPO Overview 3.0](#), section 3.3, there is a consensus view about "passive holding":

"From the inception of the UDRP, panelists 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. 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." When considered the present circumstances of this case, namely (i) the degree of distinctiveness or reputation of the Complainant's trademark, (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, and (iv) the implausibility of any good faith use to which the misleading disputed domain names may be put.

Such passive holding is to be regarded as use in bad faith (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Jupiters Limited v. Aaron Hall*, WIPO Case No. [D2000-0574](#); *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. [D2002-0131](#); *Westdev Limited v. Private Data*, WIPO Case No. [D2007-1903](#); *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#); *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#)).

Besides, given that the Complainant operates in financial and banking services, the Panel suspects that the registration of the disputed domain names, which have been found confusingly similar with the Complainant's trademarks, is very likely intended to phishing purposes or similar fraudulent activities (WIPO Case No. [D2023-2729](#), *Boursorama S.A. v. FG GFGS*).

Accordingly, the Complainant has satisfied the requirements of 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 names <espace1-crediitmutuel.com> and <espace2-creditmutuuel.com> be transferred to the Complainant.

/William Lobelson/

William Lobelson

Sole Panelist

Date: September 26, 2023