

ADMINISTRATIVE PANEL DECISION

Confédération Nationale du Crédit Mutuel (Cncm) v. Jean Bernard Case No. D2023-3402

1. The Parties

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

The Respondent is Jean Bernard, France.

2. The Domain Name and Registrar

The disputed domain name <creditmutuele-fr.net> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 10, 2023. On August 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 11, 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 Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 11, 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 August 14, 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 August 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 11, 2023.

The Center appointed William Lobelson as the sole panelist in this matter on September 21, 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 trademark No. 009943135, 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 (“gTLDs”) and country code Top-Level Domains (“ccTLDs”).

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 *Confederation Nationale du Credit 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 name <creditmutuele-fr.net> was registered on May 7, 2023. It does not resolve to any active web page. MX servers are activated.

5. Parties’ Contentions

A. Complainant

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

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 trade mark 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 name is: <creditmutuele-fr.net>.

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

The disputed domain name reproduces and imitates the Complainant's trademark CRÉDIT MUTUEL.

The addition of an extra letter "e", a hyphen, the term "fr" and the gTLD ".com" do not prevent a finding of confusing similarity.

The minor differences between the Complainant's trademark CRÉDIT MUTUEL and the disputed domain name makes the latter visually and phonetically similar to the former. This mere addition of letters does nothing to distinguish the disputed domain name 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 name, 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 name.

The Complainant further contends that the Respondent is not known under the disputed domain name and does not make any *bona fide* use of the same, being emphasized that the disputed domain name does 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 name.

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 disputed domain name does 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:

Confederation Nationale du Credit 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 name was 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 Complainant's investigations reveal that the details of the Respondent and in particular his address are not genuine.

The fact that the Respondent used a 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 name, which differs from the well-known Complainant's trademark only because of the addition of extra letters "e", "fr" demonstrates the Respondent's will to select the disputed domain name which is sufficiently similar to the trademark to attract the Internet users.

Regarding the similarity of the disputed domain name 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.

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 name, and still acts in bad faith.

The disputed domain name is inactive.

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."

Under the 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, the Panel finds that 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](#)).

In addition, the Complainant provided evidence that the Respondent had configured an e-mail server.

Although no evidence of a fraudulent act was brought, the Panel is aware of the common practice of hackers registering domain names consisting of publicly known brands, in order to have e-mail addresses imitating those of such companies, with a view to engaging in acts of deception and extortion of money from Internet users.

The creation of an email address - based on the disputed domain name - that may lead the recipient of a message sent from that address to believe that it is from the Complainant constitutes bad faith use of the domain name (See *Credit Industriel et Commercial S.A. v. Zabor Mok*, WIPO Case No. [D2015-1432](#)).

Consequently, in view of all the above circumstances, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are satisfied.

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 <creditmutuele-fr.net> be transferred to the Complainant.

/William Lobelson/

William Lobelson

Sole Panelist

Date: October 4, 2023