

ADMINISTRATIVE PANEL DECISION

Caisse Fédérale de Crédit Mutuel v. Julien Thuram and Theo Guerzac
Case No. D2023-4703

1. The Parties

The Complainant is Caisse Fédérale de Crédit Mutuel, France, represented by MEYER & Partenaires, France.

The Respondents are Julien Thuram and Theo Guerzac, France.

2. The Domain Names and Registrar

The disputed domain names <p-monetico-service.com> and <p-monetico-services.com> are registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on November 13, 2023. On November 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On December 15, 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 (Contact Privacy Inc.) and contact information in the Complaint.

The Center sent an email communication to the Complainant on December 15, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on December 20, 2023.

On December 15, 2023, the Center informed the parties in French and English, that the language of the registration agreement for the disputed domain names is French. On December 20, 2023, the Complainant confirmed its request that English be the language of the proceeding. The Respondents did not submit any comment on the Complainant’s submission.

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 Respondents of the Complaint, and the proceedings commenced on December 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 11, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on January 15, 2023.

The Center appointed Vincent Denoyelle as the sole panelist in this matter on January 18, 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 based on the submissions in the Complaint and the Annexes to the Complaint.

The Complainant is a French group of companies specialized in banking and insurance services. The Complainant offers an online payment service under the name “Monetico”.

The Complainant is the owner of several trade marks for MONETICO including the following:

- European Union Trade Mark MONETICO No. 011568912 registered on August 29, 2014, in classes 9 and 36.

The Complainant is also the owner of several domain names reflecting its MONETICO trade mark, such as <monetico.com> (registered in 2008), <monetico-service.com> (registered in 2014) and <monetico-services.com> (registered in 2014).

The disputed domain name <p-monetico-service.com> was registered on July 14, 2023, and <p-monetico-services.com> was registered on May 22, 2023.

The disputed domain name <p-monetico-service.com> triggers the following message: “Server Error 403, Forbidden. You do not have permission to access this document.” The disputed domain name <p-monetico-services.com> triggers a security warning (“Dangerous site – Attackers on the site you’re trying to visit might trick you into installing software or revealing things like your password, phone or credit card number (...)”) and at the time of filing the Complaint it resolved to a default webpage of the hosting provider.

The only information relating to the underlying registrants of the disputed domain names is the information disclosed by the Registrar and it appears that delivery to the respective addresses was not possible, either because the address was incorrect (“bad address” according to the DHL notification) or the delivery was refused.

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the MONETICO trade mark in which the Complainant has rights as the disputed domain names incorporate the entire MONETICO trade mark with the mere addition of the letter “p”, an hyphen “-” before and after the MONETICO trade mark followed by the descriptive word “service” for the first disputed domain name and “services” for the second disputed domain name. The Complainant contends that such additions to each of the disputed domain names do not prevent the likelihood of confusion between the disputed domain names and the Complainant’s trade mark.

The Complainant asserts that the Respondents have no rights or legitimate interests in respect of the disputed domain names. The Complainant contends that the Respondents are not related in any way to the Complainant’s business and no license or authorization has been granted to the Respondents to register or use the disputed domain names. The Complainant states that the use of the disputed domain names is not one that could constitute a bona fide offering of goods or services or a legitimate, noncommercial fair use of the disputed domain names and that such use could be detrimental to the Complainant as Internet users may believe that the Complainant has been hacked or that the Complainant is mismanaging its domain names. The Complainant adds that the disputed domain names could be put to a different use at any time and this constitutes a threat hanging over the Complainant.

The Complainant contends that the Respondents have registered the disputed domain names with full knowledge of the Complainant’s MONETICO trade mark. The Complainant considers that the terms added to its MONETICO trade mark in the disputed domain names reinforce the likelihood that the Respondents are targeting the Complainant and also argues, as an additional circumstance suggesting registration in bad faith, that the registration contact details for the disputed domain names are fictitious. The Complainant also alleges that the Respondents are using both disputed domain names in bad faith under the doctrine of passive holding. The Complainant considers that the disputed domain names are clearly intended to create confusion with the Complainant and to take advantage of this confusion for illegitimate purposes such as scamming, phishing and/or personal data theft. The Complainant also provides the results of a reverse IP lookup showing that the IP address corresponding to the disputed domain names also corresponds to a few other domain names that, according to the Complainant, are illegitimate domain names and websites targeting other online payment service providers.

B. Respondents

The Respondents did not reply to the Complainant’s contentions.

6. Discussion and Findings

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally two different domain name registrants. The Complainant alleges that the disputed domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant’s request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant’s request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.11.2.

As regards common control, the Panel notes the following:

- both disputed domain names were registered through the same privacy service (Contact Privacy Inc.);
- both disputed domain names are registered through the same Registrar;
- the disputed domain names are nearly identical and follow a highly similar and specific pattern namely the letter “p”, an hyphen “-” followed by the MONETICO trade mark, then an hyphen “-” and the word “service” for the first disputed domain name and “services” for the second disputed domain name;
- the registration contact details for both disputed domain names would appear to be inaccurate given the fact that delivery of the Written Notice was not possible.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is French. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that, so the Complainant contends, as the Respondent provided contact details that are most likely false, this is a strong indication that the Respondent has no intention to be contacted and even less to reply to any communication about the disputed domain names.

The Respondent did not make any submissions with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs. [WIPO Overview 3.0](#), section 4.5.1.

- The Panel notes that the contact details provided by the Respondent are likely to be false given that delivery to the addresses of record was not possible (“bad address” and “refused delivery”);
- The Panel also notes the fact that other domain names hosted on the same IP address as the disputed domain names include words in the English language such as “payment”.

The Panel is satisfied that the Respondent reasonably understands the nature of the proceedings and finds that to request the Complainant to translate the Complaint would cause potential unfairness and unwarranted costs and delay in light of the overall circumstances.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

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 names. [WIPO Overview 3.0](#), section 1.7.

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

The entirety of the MONETICO trade mark is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, the letter “p”, hyphens “-” and terms “service” or “services”, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the MONETICO trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 names. 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 names such as those enumerated in the Policy or otherwise.

The Complainant has stated that the Respondent has no rights or legitimate interests in the disputed domain names and that it has not licensed or otherwise authorized the Respondent to make any use of its MONETICO trade mark. There is no indication that the Respondent is commonly known by either of the disputed domain names.

The current passive holding or the apparently malevolent underlying use of at least one of the disputed domain names (as suggested by the security warnings triggered by the disputed domain name <p-monetico-services.com>) cannot be considered bona fide, legitimate, or fair.

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.

In the present case, the Panel finds that the Respondent, at the time of registration of the disputed domain names, must have been aware of the Complainant’s trade mark MONETICO given (i) the online visibility of the MONETICO trade mark and the fact that the disputed domain names are highly similar to the domain names <monetico-service.com> and <monetico-services.com> registered in 2014 by the Complainant, (ii)

the fact that the Respondent appears to be based in France where the Complainant is headquartered and where its goodwill is probably higher than anywhere else, and (iii) the fact that the disputed domain names were registered relatively recently and many years after the registration of the trade mark MONETICO.

The fact that the registration contact details for the disputed domain names appear to be false or inaccurate also points to the bad faith of the Respondent at the time of the registration of the disputed domain names.

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. [WIPO Overview 3.0](#), section 3.2.1.

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 names does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, 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 online visibility of the Complainant and its MONETICO trade mark, the composition of the disputed domain names, the use of a privacy service and inaccurate registration contact details and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

Finally, the composition of the disputed domain names creates a high risk of affiliation with the Complainant and constitutes a threat hanging over the Complainant and its customers especially given that the banking and payment sector is particularly prone to being the target of online fraud, *Crédit Agricole SA, Caisse Régionale De Crédit Agricole Mutuel Sud-Méditerranée v. Data Privacy Protected / Alex Riera*, WIPO Case No. [D2019-1704](#)).

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 names <p-monetico-service.com> and <p-monetico-services.com> be transferred to the Complainant.

/Vincent Denoyelle/

Vincent Denoyelle

Sole Panelist

Date: February 1, 2024