

ADMINISTRATIVE PANEL DECISION

Crédit Industriel et Commercial S.A. v. Clémenthe Ayenan
Case No. D2023-4807

1. The Parties

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

The Respondent is Clémenthe Ayenan, Benin.

2. The Domain Name and Registrar

The disputed domain name <officielcic.com> is registered with One.com A/S (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 20, 2023. On November 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 22, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 4, 2023, providing the registrant and contact information disclosed by the Registrar and Notification of Language of Proceeding, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on December 5, 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 December 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2024.

The Center appointed Mireille Buydens as the sole panelist in this matter on January 17, 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 Complainant, CREDIT INDUSTRIEL ET COMMERCIAL (which is usually designated by the abbreviation "CIC"), is one of the oldest deposit banks in France. It was set up in 1859. CIC is currently a part of one of the main European banking groups, "Crédit Mutuel Alliance Fédérale". The Complainant has currently more than 5,3 million clients, among them almost 946,000 professionals and businesses. It has more than 1,800 agencies in France and 37 abroad.

The Complainant's website at "www.cic.fr" is used for its online activity and provides to its clients a secured interface with an online access to their bank accounts.

The Complainant is the owner of a large number of trademark registrations consisting or including the sign "CIC" ("the Trademark") in France and abroad, *inter alia*:

- CIC French trademark registration No. 1358524, registered on June 10, 1986;
- CIC European Union trademark registration No. 005891411, registered on March 5, 2008;
- CIC European Union word and device trademark registration No. 11355328, registered on March 26, 2013.

The Complainant is using the Trademark as domain name to promote its activities, especially the domain name <cic.fr> and <cic.eu>, 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 <officielcic.com> was registered on August 28, 2023, using a privacy shield service.

The Registrant is a natural person domiciled in Cotonou (Benin). The Complainant suspects that the contact details are false and/or incomplete.

The disputed domain name is inactive. It resolves to an error page, mentioning that no website can be reached under this address.

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.

First, the Complainant asserts that it owns registrations for the Trademark. The disputed domain name is confusingly similar to the Complainant's Trademark. The Trademark is identically reproduced and recognizable in the disputed domain name. The addition of the word "officiel" (which is the French translation of "official") as a prefix cannot be considered enough to distinguish the disputed domain name from the Trademark. The Top-Level Domain ("TLD") ".com" in the disputed domain name should be disregarded.

Second, the Complainant asserts that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not been licensed, contracted, or otherwise permitted by the Complainant in any way to use the Trademark or to apply for any domain name incorporating the Trademark. The Respondent is not commonly known by the disputed domain name. The disputed domain name is currently inactive, and this inactivity cannot be considered *bona fide* offering of goods or services.

Third, the Complainant asserts that the disputed domain name was registered and is being used in bad faith. The Complainant submits that the Trademark (which predates the registration of the disputed domain name) is a well-known Trademark and it relies on previous UDRP decisions that have recognized the well-known character of the CIC Trademark (see, e.g., *Credit Industriel et Commercial S.A., Banque Fédérative du Credit Mutuel v. Headwaters MB*, WIPO Case No. [D2008-1892](#); *Credit Industriel et Commercial S.A v. Jeongyong Cho*, WIPO Case No. [D2013-1263](#) ; and *Credit Industriel et Commercial v. Mao Adnri*, WIPO Case No. [D2013-2143](#)). At the time of registration of the disputed domain name, the Respondent knew, or at least should have known, of the existence of the Complainant's Trademark. Moreover, the disputed domain name is composed of a reproduction of the Trademark and the French word "officiel", which reinforces the presumption that the Respondent specifically targeted the Complainant, which is a French company whose main business is run in France. The disputed domain name is suited to mislead Internet users: the addition of the French word "officiel" as a prefix strongly suggest a connection with the Complainant. Indeed, this word combined with the Trademark strongly suggests that the disputed domain name will redirect to an official website of the Complainant. Additionally, the Complainant claims that the Respondent used a Whois proxy service with the purpose of avoiding being identified and to be contacted, especially in case of the detection of any fraudulent or bad faith use.

Finally, the Complainant submits that the disputed domain name resolves to an inactive website. The Complainant asserts that the passive holding of the disputed domain name amounts to use in bad faith because, (1) the Complainant's Trademark is well-known, (2) the addition of the word "officiel" (official in English) evidences that the disputed domain name is specifically targeting the Complainant since it is a French well-known company; (3) the Respondent concealed its identity and (4) the disputed domain name is inactive since its registration and it has been registered in bad faith.

B. Respondent

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

6. Discussion and Findings

Language of proceeding

Pursuant to paragraph 11 of the UDRP Rules, unless otherwise agreed by the parties, the default language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise.

In the present case, the Registrar confirmed that the language of the Registration Agreement for the disputed domain name is French. The Complaint was however filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Respondent concealed its identity, making it impossible for the Complainant to find out that it could potentially be a French speaker. The Complainant further contends that the Respondent did not use a French registrar and that the registration agreement available on the registrar's website is in English.

The Respondent did not make any specific submissions with respect to the language of the proceeding and did not react to the emails sent by the Center in the framework of this proceeding.

Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include notably cases where the script of the domain name is the same as that of the complainant's mark and unwarranted delay in ordering the complainant to translate the complaint. The lack of reaction of the respondent after having been given a fair chance to comment is particularly relevant.

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 (see [WIPO Overview 3.0](#), section 4.5.1).

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.

Policy Requirements

Dealing 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 provides 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 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.

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. 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 for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here the term "officiel" as a prefix, which is the French translation of "official") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The gTLD ".com" is a standard registration requirement and does not prevent the disputed domain name from being confusingly similar to the Trademark. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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 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 such as those enumerated in the Policy or otherwise.

The Respondent is not licensed by or affiliated with the Complainant in any way. There is no evidence that the Respondent would be commonly known under the disputed domain name, nor is there any evidence of use or demonstrable plans to use the disputed domain name for a *bona fide* offering of goods or services. There is no evidence of legitimate noncommercial or fair use of the disputed domain name, either.

The Panel notes that the composition of the disputed domain name carries a high risk of implied affiliation with the Complainant (see [WIPO Overview 3.0](#), section 2.5.1). The composition of the disputed domain name, adding the term “officiel” (French translation of “official”) to the Complainant’s Trademark, affirms the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant’s Trademark as Internet users will be induced to believe that the Respondent’s website is an official Complainant’s website (as it is made of the word “official” and the Complainant’s Trademark, which is also the Complainant’s corporate name’s abbreviation) . This confirms that there is no use, nor preparations to use, of the disputed domain name in connection with a *bona fide* offering of goods or services, and thus no legitimate interest in in the disputed domain name.

Based on the available record, 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 notes that the disputed domain name contains the Complainant’s well-known Trademark which predates the registration of the disputed domain name, with the addition of the descriptive word “officiel” (the French translation of “official”) as a prefix. This composition of the disputed domain name is well-suited to mislead Internet users, which will unduly believe that the disputed domain name resolves to an official website of the Complainant. This composition of the disputed domain name could hardly be the result of mere coincidence. It is highly unlikely that the Respondent was not aware of the Complainant’s Trademark at the time of the registration of the Disputed Domain Name ([WIPO Overview 3.0](#) section 3.1.4). It is also highly unlikely that the Respondent, located in a French speaking country, was unaware of the meaning of the word “officiel”. By registering the disputed domain name, the Respondent has sought to

create a misleading impression of association with the Complainant. The registration of the disputed domain name creates an obvious likelihood of confusion with the Complainant and its Trademark.

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. 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 distinctiveness and reputation of the Complainant's Trademark, the composition of the disputed domain name, the failure of the Respondent to submit a response and the Respondent's concealing its identity (the contact details given to the registrar were incomplete). The Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

Based on the available record, 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 name <officielcic.com> be transferred to the Complainant.

/Mireille Buydens/

Mireille Buydens

Sole Panelist

Date: January 21, 2024