

ADMINISTRATIVE PANEL DECISION

Confederation Nationale Du Credit Mutuel v. Abdul L khalid, mcg
Case No. D2023-5012

1. The Parties

The Complainant is Confederation Nationale Du Credit Mutuel, France, represented by MEYER & Partenaires, France.

The Respondent is Abdul L khalid, mcg, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <mutuelcreditgroup.com> (the “Domain Name”) is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2023. On December 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 1, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 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 4, 2024.

The Center appointed Olga Zalomiy 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 Complainant is a central body for the French banking group, which provides services to 12 million clients for more than a century.

The Complainant owns several trademark registrations for its CREDIT MUTUEL trademark, such as:

- The French registration No.1475940, for the CREDIT MUTUEL (word and design) mark, registered on December 30, 1988;
- The French registration No.1646012, for the CREDIT MUTUEL (word and design) mark, registered on July 26, 1991;
- The European Union registration No.009943135 for the trademark CREDIT MUTUEL (word), registered on October 20, 2011.

The Complainant along with its IT focused subsidiary EURO INFORMATION also registered multiple domain names that include its CREDIT MUTUEL trademark, such as:

<creditmutuel.com>, registered on October 28, 1995; <creditmutuel.org>, registered on June 3, 2002, <creditmutuel.fr>, registered on August 9, 1995; <groupe-creditmutuel.com> registered on February 8, 2016.

Prior panels recognized the well-known status of the Complainant's CREDIT MUTUEL trademark for banking services.¹

The Respondent, who is purportedly located in Nigeria, registered the Domain Name on November 15, 2023. The Respondent used the Domain Name to direct to a website that was designed to look like the Complainant's official website. The website under the Domain Name prominently displayed the Complainant's trademark. After the Complainant informed a hosting company, which hosted the website under the Domain Name, that the website infringed on its intellectual property rights, the website was deactivated. Currently, the Domain Name does not direct to an active website.

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 Domain Name.

Notably, the Complainant contends that the Domain Name is similar to the Complainant's well-known CREDIT MUTUEL trademarks and domain names because the mere transposition of the words "credit" and "mutuel" does not diminish confusing similarity. The Complainant argues that the addition of the word "group" does not prevent finding of confusing similarity because the Complainant's mark is recognizable in the Domain Name. In fact, the French version of the word "group" is often used to refer to the Complainant.

The Complainant argues that the Respondent has no rights or legitimate interests in the Domain Name because it did not grant any license or authorization to use its mark in the Domain Name. Further, the Respondent is not commonly known under the name "MUTUEL CREDIT", "MUTUEL CREDIT GROUP" or

¹Confédération Nationale du Crédit Mutuel v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Roger legall, WIPO Case No. [D2021-2364](#); Confédération Nationale du Crédit Mutuel v. Whois Privacy Protection Foundation / Dani Lapo, WIPO Case No. [D2020-0976](#); Confédération Nationale du Crédit Mutuel v. Domain Administrator, See PrivacyGuardian.org / Jerome Maik, WIPO Case No. [D2021-4152](#) and etc.

the Domain Name and has not acquired a trademark or service mark under that name. After the Complainant informed the hosting provider that the website under the Domain Name violated its intellectual property rights, the website was deactivated. The Complainant alleges that the Domain Name has been registered and used in bad faith by the Respondent because the notoriety of the Complainant's mark created a presumption bad faith registration of the Domain Name. Because the Respondent used the Domain Name for directing to a website that looked like the Complainant's official website, the Complainant argues that the Respondent is using the Domain Name in bad faith for the purpose of intentionally attempting to create a likelihood of confusion with the Complainant's mark.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the Domain Name:

- (i) the 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 Domain Name; and
- (iii) the 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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

The Panel notes the Domain Name consists of a transposition of the CREDIT MUTUEL trademark, with the added term "group". The Panel finds the transposition of the words composing the trademark does not prevent a finding of confusing similarity.

The Panel finds the mark is recognizable within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The inclusion of the generic Top-Level Domain ("gTLD") ".com" is typically disregarded in the context of the confusing similarity assessment, being a technical requirement of registration. [WIPO Overview 3.0](#), section 1.11.

Although the addition of other terms, here, the term "group", 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 Domain Name and the 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 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 Domain Name such as those enumerated in the Policy or otherwise.

The evidence on record shows that the Respondent is not commonly known by the Domain Name. Nor is the Respondent making a legitimate noncommercial or fair use of the Domain Name, because the Domain Name was used to direct to a website, which looked very similar to the design of the Complainant’s official website. Therefore, it is likely that the Respondent planned to use the Domain Name for fraudulent activity. [WIPO Overview 3.0](#), section 2.13.

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.

Given that the Domain Name consists of a transposition of the Complainant’s well-known trademark text elements “credit” and “mutuel”, the similarity between the design of the website under the Domain Name and the design of the Complainant’s official website and that the Respondent lacks any right or legitimate interest in the Domain Name, it is likely that by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or location or of a product or service on the Respondent’s website or location under paragraph 4(b)(iv) (absent any evidence from the Respondent to the contrary).

Panels 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. Having reviewed the available record, the Panel finds the non-use of the Domain Name 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 distinctiveness or reputation of the Complainant’s trademark, and the composition of the Domain Name, and finds that in the circumstances of this case the passive holding of the Domain Name does not prevent a finding of bad faith under the Policy.

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 Domain Name <mutuelcreditgroup.com> be transferred to the Complainant.

/Olga Zalomiy/

Olga Zalomiy

Sole Panelist

Date: February 1, 2024