

## **ADMINISTRATIVE PANEL DECISION**

### **CA Consumer Finance Société v. Cyber Lab**

### **Case No. D2023-5014**

#### **1. The Parties**

The Complainant is CA Consumer Finance Société, France, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Cyber Lab, France.

#### **2. The Domain Name and Registrar**

The disputed domain name <helpdesk-sofinco.com> is registered with GoDaddy.com, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 1, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 4, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 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 amended Complaint on December 12, 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 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 8, 2024.

The Center appointed Benjamin Fontaine as the sole panelist in this matter on January 25, 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, CA Consumer Finance, is part of the Credit Agricole Group (CA Group), an international banking group headquartered in France, which is made up of a network of banks and financial service companies.

In 1999, Crédit Agricole Group has acquired SOFINCO (Société de Financement Industriel et Commercial), a company created in 1951 which specializes in providing consumer credit services. CA Consumer Finance was established in 2010 following a merger between Sofinco and Finaref, another branch of Crédit Agricole Group.

Currently, CA Consumer Finance provides consumer credit services through its trade mark SOFINCO. The Complainant has shown that the trade mark SOFINCO enjoys some degree of recognition, at least among the French public: it was established several decades ago, and searches online reveal that “helpdesk sofinco” provides results linked to the Complainant’s trade mark. The Complainant highlights also, on the basis of web analytics obtained in May 2022, that the website hosted under its domain name <sofinco.fr> was then ranked 981st in France in number of visits and had received a total of 1,2 million visits.

The Complainant is the owner of trade marks registrations for SOFINCO across various jurisdictions, including:

- the French Trade mark registration SOFINCO No. 1519214 registered on March 22, 1988;
- the European Union Trade Mark registration SOFINCO No. 017874353 registered on August 9, 2018;
- the International Trade mark registration SOFINCO No. 730493 registered on November 24, 1999.

The Complainant also has a large Internet presence, being the owner of over 300 domain names reflecting its trade marks, out of which 62 domain names incorporate the trade mark SOFINCO.

The disputed domain name was registered on May 30, 2023 and resolves to an inactive website. Enclosed with the Complaint is a screenshot of a warning message issued by the web browser, indicating that accessing to the disputed domain name may result in particular in the installation of malware.

The Complainant sent three cease-and-desist letters to the Respondent through the Registrar’s contact form to no avail. The Respondent has not responded to the Complainant’s attempts to resolve this dispute outside of this administrative proceeding.

#### **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.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its trade mark SOFINCO. Indeed, the Second Level Domain of the disputed domain name can be considered as capturing, in its entirety, the trade mark SOFINCO. Adding the generic term “helpdesk” to the beginning of the disputed domain name, with a hyphen separating it from the trade mark SOFINCO, does not prevent a finding of confusing similarity under the first element.

Second, the Complainant indicates that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant holds registrations for the trade mark SOFINCO, establishing prima facie evidence of the validity of the term “SOFINCO” as a trade mark, and of its exclusive right to use this trade mark in commerce on or in connection with the goods and services specified. The Respondent is not sponsored by or affiliated with the Complainant in any way. Nor has the Complainant given the Respondent license, authorization or permission to use its trade mark in any manner, including in domain names. The disclosure of the Respondent’s identity shows that it is not commonly known by the disputed domain name, which evidences a lack of rights or legitimate interests. The Registrar has identified the Registrant of the disputed domain name as “Cyber Lab”, which does not resemble the disputed domain name in any manner. Moreover, the Respondent registered the disputed domain name on May 30, 2023, which is significantly after the Complainant’s registration of its first trade marks SOFINCO. As a result, the Respondent must be considered as being well aware of the Complainant and its trade mark at the time of the registration of the disputed domain name. Finally, the Respondent has failed to make use of the disputed domain name and has not demonstrated any attempt to make legitimate use of the disputed domain name.

Third, the Complainant’s indicates that the disputed domain name was registered and used in bad faith. The company SOFINCO was created in 1951 and, since then, has been a leader of consumer credit services in France and European Union for more than 70 years. It is known internationally, with the trade mark registrations across numerous countries. Performing searches across a number of Internet search engines for “helpdesk sofinco” returns multiple links referencing the Complainant and its business. It is more likely than not that the Respondent knew of and targeted the Complainant’s trade mark when registering the disputed domain name. The lack of substantial website content on the disputed domain name does not prevent a finding of bad faith in the circumstances of this case, as previous panels have noted that the word bad faith “use” does not require a positive act on the part of the Respondent, and passively holding a domain name can constitute a factor in finding bad faith registration and use pursuant to the Policy. In addition, the Respondent has set-up mail exchange (“MX”) record on the disputed domain name, giving rise to the possibility that the Respondent intended, or intends, to use the disputed domain name to send fraudulent emails as part of a phishing scheme. Moreover, the Respondent has employed a privacy service to hide its identity and ignored the Complainant’s attempts to contact it before filing the Complaint. Considering the circumstances, any use of the disputed domain name whatsoever, whether actual or theoretical, would have to be in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 trade mark and the disputed domain name. See 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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

Although the addition of other terms here, “helpdesk”, 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 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 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 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.

As a preliminary remark, the Panel notes that the Respondent, which is located in France, has registered a domain name composed of the trade mark SOFINCO which is inherently distinctive and enjoys some degree of recognition. In the disputed domain name, the SOFINCO trade mark is preceded by the term “helpdesk”, suggesting a support service. The disputed domain name will necessarily be perceived by the public as being affiliated with or authorized by the Complainant and obviously creates a risk of implied affiliation.

Several elements support a finding of bad faith registration and use of the disputed domain name:

First, it is apparent from the screenshot submitted in the Complaint that the Respondent is potentially attempting to install malware in the systems of the users.

Second, the activation of MX records suggests that the Respondent might use the disputed domain name in order to send fraudulent emails as part of a phishing scheme.

Third, the Respondent has apparently engaged in a pattern of cybersquatting activities, as it has registered other domain names that incorporate the well-known trade marks of third parties.

Fourth, in any case, the Respondent’s non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0, section 3.3](#).

Finally, the Respondent concealed its identity at the time of registration and ignored the Complainant’s attempts to contact it to find an amicable solution which lends credence to the theory that the Respondent acted in bad faith.

For the reasons set out above, the Panel concludes that the disputed domain name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of 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 disputed domain name <helpdesk-sofinco.com> be transferred to the Complainant.

*/Benjamin Fontaine/*

**Benjamin Fontaine**

Sole Panelist

Date: February 8, 2024