

ADMINISTRATIVE PANEL DECISION

CAIXA GERAL DE DEPOSITOS S.A. v. Sebastien Duval
Case No. D2024-1231

1. The Parties

The Complainant is CAIXA GERAL DE DEPOSITOS S.A., Portugal, represented by Alain Bensoussan Avocats, France.

The Respondent is Sebastien Duval, France.

2. The Domain Name and Registrar

The disputed domain name <aces-c-g-d-online.com> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 11, 2024. On March 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 25, 2024, 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 26, 2024, 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 March 29, 2024.

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 April 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 23, 2024. The Respondent sent an email communication to the Center on March 26, 2024. On April 26, 2024, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Taras Kyslyy as the sole panelist in this matter on May 3, 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 Portuguese public financial institution founded on April 10, 1876, and nowadays is a public limited company with public capital owned exclusively by the Portuguese State. The Complainant belongs to a group of companies known as “CGD Group”, which operates in commercial banking, investment banking, asset management, and real estate. Within the CGD Group, the Complainant acts as a universal bank. CGD Group is present on 4 major continents, including Europe.

The Complainant is the owner of 22 trademarks containing the sign CGD in various jurisdictions, including for instance the European Union registration No. 014 173 272 for trademark CGD ON-LINE, registered on December 9, 2015.

The trademark CGD ON-LINE is namely used by the French branch, CAIXA GERAL DE DEPOSITOS, to designate an Internet platform for consulting and managing bank accounts.

The Complainant also holds and uses domain names <cgd.pt> and <cgd.fr> that were registered prior to the disputed domain name.

The disputed domain name was registered on December 26, 2023, and resolved to a log-in webpage requesting Internet user’s username or email address and password. At the time of the decision in this case, the disputed domain name does not resolve to any 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 disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant’s trademark. The disputed domain name incorporates the Complainant’s trademark. The addition of dashes to separate the letters, the doubling of the final letter “d”, and the addition of the generic term “acces” do not prevent confusing similarity of the disputed domain name and the Complainant’s trademark. The Respondent, at least who is located in France, is therefore well aware of the meaning of the above-mentioned elements making up the disputed domain name.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. The disputed domain name is confusingly similar to the Complainant’s trademark, while the Complainant has not granted any license or otherwise authorization to use its trademark to the Respondent. The addition of the prefix “acces” in the disputed domain name increases the risk of affiliation insofar as it refers to the offer of an “online space” proposed by the Complainant and its French office, which allows their clients to consult and manage their bank accounts online. It results from research on official and online databases, that the Respondent, a person living in France, has no trademark right in the signs “c-g-d-d”, “cgdd” or any other similar sign, at least in France or in the European Union. The Complainant has found no trace of the Respondent living or carrying on business at the address assigned to the Registrar, or under a commercial name composed of “CGDD”. The disputed domain name was used for illegal activities, since it resolved to a website that collected personal data (i.e., email address) and where it was impossible to identify the publisher due to the lack of legal notices or contact information. The disputed domain name was

used as part of a wider scam encouraging Internet users to transmit personal data through the website associated with the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith.

The disputed domain name is confusingly similar to the earlier Complainant's trademark. A simple Google.com search for "cgd online" reveals the Complainant's existence. The Respondent could perfectly well have been aware of the activity of the French branch after conducting this simple research and verification of rights. The Complainant's trademark has no particular meaning and has a distinctive character. The disputed domain name was resolving to an Internet website whose main objective is to collect personal data and on which it is impossible to identify the publisher or operator in the absence of any information. Moreover, this personal data collection was part of a wider scam. The Complainant had been informed that fraudulent e-mails had been sent, encouraging users to access the website associated with the disputed domain name in order to provide personal data. The emails sent from an anonymously registered domain name, invited the receiver to access the website associated with the disputed domain name. Furthermore, the link with the Complainant is obvious, since reference to the Complainant is made twice. This phishing attack appears to be widespread, given the information available on the Internet, which reveals that reports were made by Internet users and official institutions. The Complainant notified the fraudulent behavior to the Registrar, that decided to immediately remove the reported URL composed of the disputed domain name, recognizing that the use of the disputed domain name was fraudulent.

B. Respondent

The Respondent did not reply to the Complainant's contentions. In its informal communication to the Center the Respondent requested that the Complaint not be taken into consideration, since there must be an error on the file.

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 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.

The Complainant has shown rights in respect of a trademark (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, "acces", "d", and hyphens, 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 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 available evidence does not confirm that the Respondent is commonly known by the disputed domain name, which could demonstrate his rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademarks by the Respondent, thus no actual or contemplated bona fide or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

Panels have held that the use of a domain name for illegal activity – here, claimed phishing and impersonating the Complainant, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Respondent registered the disputed domain name confusingly similar to the Complainant’s trademark and used it to scam Internet users while impersonating the Complainant. The Panel finds that the nature of the disputed domain name and its use confirms the Respondent knew of the Complainant’s prior trademark rights, which confirms the bad faith. [WIPO Overview 3.0](#), section 3.2.2

Panels have held that the use of a domain name for illegal activity – here, claimed phishing and impersonation the Complainant constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

Although at the time of this decision the disputed domain name resolves to inactive webpage, its previous bad faith use and lack of explanation of possible good faith use from the Respondent makes any good faith use of the disputed domain name implausible. Thus, the current passive holding of the disputed domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3.

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 <aces-c-g-d-d-online.com> be transferred to the Complainant.

/Taras Kyslyy/

Taras Kyslyy

Sole Panelist

Date: May 17, 2024