

ADMINISTRATIVE PANEL DECISION

Confédération Nationale du Crédit Mutuel v. Allan Carlos Dulcini
Case No. D2024-2624

1. The Parties

The Complainant is Confédération Nationale du Crédit Mutuel, France, represented by MEYER & Partenaires, France.

The Respondent is Allan Carlos Dulcini, Brazil.

2. The Domain Name and Registrar

The disputed domain name <creditmutuel-br.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2024. On June 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 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, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 3, 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 July 4, 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 July 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 31, 2024.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on August 23, 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 Conf d ration Nationale du Cr dit Mutuel, one of the largest French banking and insurance services group with 3178 offices in France, providing services to 12 million clients for more than a century.

The Complainant is the owner, amongst others, of the following trademark registrations consisting of the wording Cr dit Mutuel:

- CR DIT MUTUEL, French trademark No. 1646012 registered on November 20, 1990 in classes 16, 35, 36, 38 and 41;
- CR DIT MUTUEL, European Union Trademark No. 9943135 registered on October 20, 2011 in classes 9, 16, 35, 36, 38, 41, 42, 45;
- CR DIT MUTUEL, International trademark No. 570182 registered on of May 17, 1991 in classes 16, 35, 36, 38 and 41 designating Benelux, Italy and Portugal.

The Complainant has also registered several domain names including the trademark CR DIT MUTUEL

- <creditmutuel.com>, registered on October 28, 1995;
- <creditmutuel.org>, registered on June 3, 2002;
- <creditmutuel.info> registered on September 13, 2001.

The disputed domain name <creditmutuel-br.com> was registered on April 17, 2024. It does not resolve to any active web page.

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:

1. the disputed domain name is identical or at least confusingly similar to the trademark CR DIT MUTUEL.
2. it is well established that the generic Top-Level Domains ("gTLDs") such as ".com" have not to be considered while comparing the disputed domain name with the claimed trademarks.
3. as a consequence, it has to be ignored in comparing the disputed domain name to the trademark CR DIT MUTUEL.
4. the trademark CR DIT MUTUEL is identically reproduced and clearly perceivable in the radical "creditmutuel-br".
5. the only distinction is the addition of a hyphen and the country code extension for Brazil, "BR", suggesting the activation of a Cr dit Mutuel site in Brazil.
6. the Respondent has no right and no legitimate interest in the disputed domain name.
7. the Complainant has previously demonstrated the strong reputation and the well-known character of its trademark CR DIT MUTUEL at least in France, where the Complainant has the substantial part of its business and a specific web portal at "www.creditmutuel.fr".

8. the Respondent registered the disputed domain name, precisely because it knew the well-known character of this trademark.
9. the Respondent used a Whois proxy service with the purpose of not being identified or contacted.
10. it is more than clear that the disputed domain name has been registered in bad faith.
11. The disputed domain name is not being actively used by the Respondent and does not resolve to any active web page with substantive content.
12. the Respondent is undoubtedly not making any good faith use of the disputed domain name.

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 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 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, "br" and a hyphen, 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 Complainant further contends that the Respondent does not make any bona fide use - neither commercial nor noncommercial, of 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.

In the present case, the Panel notes that Respondent could not have ignored the reputation of the trademark CRÉDIT MUTUEL at the time it registered the disputed domain name. Therefore, the Respondent registered the disputed domain name and uses the same in bad faith, even though the disputed domain name does not resolve towards any active webpage.

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.

In this case, the configuration of the disputed domain name reproducing in its entirety a well-known trademark separated by a hyphen, followed by the letters "BR" that was used as the country code extension for Brazil, suggests the activation of a site in Brazil belonging to the Complainant. Moreover, the nationality of the Respondent as revealed by the Registrar to be domiciled in Brazil, and the fact that the Respondent used a Whois proxy service with the purpose of hiding its identity is particularly significant to evidence of bad faith.

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. [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 disputed domain name, and 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.

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 <creditmutuel-br.com> be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: September 6, 2024