

ADMINISTRATIVE PANEL DECISION

Confédération Nationale du Crédit Mutuel-CNCM v. Audrey Rickal
Case No. D2024-3762

1. The Parties

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

The Respondent is Audrey Rickal, France.

2. The Domain Name and Registrar

The disputed domain name <bank-credit-mutuel.com> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 16, 2024. On September 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 17, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 18, 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 amendment to the Complaint on September 23, 2024.

The Center verified that the Complaint together with the amendment to 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 September 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 16, 2024.

The Center appointed Elise Dufour as the sole panelist in this matter on October 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 the second French banking and insurance services group with 3,178 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 words "CREDIT MUTUEL":

- CREDIT MUTUEL, French trademark No. 1646012 registered on July 26, 1991 in classes 16, 35, 36, 38, and 41; and
- CRÉDIT MUTUEL (semi-figurative), European Union Trade Mark No. 18130619, registered on May 22, 2020, in classes 7, 9, 16, 35, 36, 38, 41 and 45;

The Complainant has also registered several domain names including the trademark CREDIT MUTUEL and notably <creditmutuel.com> registered on October 28, 1995 and <creditmutuel.fr> registered on August 9, 1995.

The disputed domain name was registered on August 11, 2024. It resolves to an index page with only one hyperlink that directs to a 403 error 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.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's well-known CREDIT MUTUEL trademarks and domain names. Indeed, for the Complainant the mere addition of the generic word "bank" does not prevent finding of confusing similarity as the Complainant's well-known trademark CREDIT MUTUEL is recognizable in the disputed domain name, as the sole distinctive part of the disputed domain name.

The Complainant argues that the Respondent has no rights or legitimate interests in the disputed domain name because it did not grant any license or authorization to use its mark in the disputed domain name. Further, the Respondent is not commonly known under the name "Bank Credit Mutuel".

Finally, the Complainant alleges that the disputed domain name has been registered and used in bad faith by the Respondent because the notoriety of the Complainant's mark creates a presumption of bad faith registration of the disputed domain name.

As per the use in bad faith, the Complainant contends that the disputed domain name displays an index page that directs to a "forbidden" access page, which as a result for the Complainant amounts to the fact that the disputed domain name should be considered as being unused.

For the Complainant the passive holding of the disputed domain name amounts to use in bad faith since:

- the Complainant's trademark, which is entirely reproduced in the disputed domain name, has a strong reputation and is well-known;

- the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain name;
- the registration details of the registrant are private; and
- the disputed domain name is configured with MX and SPF records, allowing the use of the disputed domain name for phishing attempts.

The Complainant concludes that 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 Panel finds the entirety of the CREDIT MUTUEL trademark is reproduced and recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "bank", 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 addition of a generic Top-Level Domain ("gTLD"), ".com" in the disputed domain name is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.

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 composition of the disputed domain name is such to carry a risk of implied affiliation to the Complainant, which cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

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 composition of the disputed domain name indicates that the Respondent was aware of the CREDIT MUTUEL trademark prior to registration of the disputed domain name.

Panels have found that the non-use of a domain name (including an index page that directs to a "forbidden" access page) would not prevent a finding of bad faith under the doctrine of passive holding; this is especially so when the disputed domain name is inherently misleading. 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, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes (i) the distinctiveness and reputation of the Complainant's trademark, (ii) the inherently misleading composition of the disputed domain name, (iii) the enabling of an MX capability based on the disputed domain name, and (iv) the Respondent's failure to respond to the Complaint, 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.

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 <bank-credit-mutuel.com> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: November 5, 2024