Panel Decision for dispute CAC-ADREU-007211

Case number	CAC-ADREU-007211
Time of filing	2016-09-11 23:09:24
Domain names	lecreditmutuel.eu

Case administrator

Lada Válková (Case admin)

Complainant

Organization	CONFÉDÉRATION NATIONALE DU CRÉDIT MUTUEL

Respondent

Name	Isabelle SCHMITT

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

The Panel is not aware of other legal proceedings which are pending or decided and which relate to the disputed domain name.

FACTUAL BACKGROUND

1. The Complainant is the second French banking and insurance services group.

2. The Complainant owns several trademarks "CREDIT MUTUEL".

3. The Complainant requested the transfer of the domain name <lecreditmutuel.eu>.

4. The Respondent did not submit a response.

A. COMPLAINANT

The Complainant contends as follow:

5. He is the registered owner of trademarks “CREDIT MUTUEL“:

- "CREDIT MUTUEL", French semi-figurative trademark from July 8, 1988, in classes 35 and 36, renewed on August 27th, 2008;
- "CREDIT MUTUEL", French semi-figurative trademark from November 20, 1990 in classes 16, 35, 36, 38 (internet services) and 41, renewed on September 15th, 2010;
- “CREDIT MUTUEL”, nominative Community trademark from May 5th, 2011 in classes 9, 16, 35, 36, 38, 41, 42, 45;
- "CREDIT MUTUEL" semi-figurative International trademark from May 17, 1991 in classes 16, 35, 36, 38 and 41, designating Benelux, Italy and Portugal, renewed on February 28th, 2011;

6. The name CREDIT MUTUEL is also protected as gTLD and ccTLD domain names.
Thus, CONFEDERATION NATIONALE DU CREDIT MUTUEL and its IT-dedicated subsidiary EURO INFORMATION are respectively the holder of many domain names including, inter alia:

- creditmutuel.info registered on September 13, 2001 and duly renewed since then;
- creditmutuel.org registered on June 3, 2002 and duly renewed since then;
- creditmutuel.fr registered on August 10th, 1995 and duly renewed since then;
- creditmutuel.com registered on October 28th 1995 and duly renewed since then;
- creditmutuel.net registered on October 3rd, 1996 and duly renewed since then;

- creditmutuel.eu on March 13, 2006.

7. According to the French ministry order No. 58-966 of October 16, 1958, the use of the wording CREDIT MUTUEL is reserved to CONFEDERATION NATIONALE DU CREDIT MUTUEL and to its related branches.

8. The Complainant claims that the disputed domain name is identical or at least confusingly similar to the trademark “CREDIT MUTUEL”, as well as the domain name <creditmutuel.eu> owned by it.

9. The Respondent should be considered as having no rights or legitimate interests in respect of the domain name <lecreditmutuel.eu>.

The Respondent is not related in any way to the Complainant's business: he is not one of its agents and does not carry out any activity for, or has any business with it.

The Respondent is not currently and has never been known under the wording “LE CREDIT MUTUEL" and has not filed any trademark (French, Community or International) on LE CREDIT MUTUEL.

No license or authorization has been granted to the Respondent to make any use or apply for registration of the disputed domain name. It has therefore no consent from the Complainant to register any domain name incorporating the Complainant’s trademark.

10. Moreover, the disputed domain is currently inactive. The inaction of the disputed domain name (for pointing to a sole webpage of the Registrar) does not constitute a bona fide offering of goods or services or a fair use of it.

11. The Complainant’s trademark CREDIT MUTUEL is well and widely known in the field of banking and financial services, particularly in Europe. It also seems impossible the Respondent was not aware of the banking group and of its trademarks CREDIT MUTUEL when he registered the disputed domain name.

It is thus highly likely that the Respondent has chosen such combination in order to give a real and concrete meaning for Internet users and the Complainant’s clients on the web, when trying to access CREDIT MUTUEL’s website.
This combination of facts is asserting the bad faith registration of the domain name.

12. The Complainant claims at last that the Respondent’s use of the disputed domain name constitutes bad faith use.

The domain name <lecreditmutuel.eu> is currently inactive. It points to a sole webpage provided by the registrar of the name.

This inaction could be assimilated to a passive holding, which could also constitute bad faith.

B. RESPONDENT

13. The Respondent did not submit any Response.

DISCUSSION AND FINDINGS

14. In consideration of the Factual Background, the Parties' Contentions stated above and its own web searches, the Panel comes to the following conclusions:

Article 21 of the Regulation (EC) No. 874/2004 of 28 April 2004 (hereafter the "Regulation") states that "a registered domain name shall be subject to revocation [...] where the name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Community law, such as the rights mentioned in Article 10(1) and where it:

(a) has been registered by its holder without rights or legitimate interest in the name; or

(b) has been registered or is being used in bad faith".

15. The rights mentioned in Article 10 (1) of the Regulation shall be understood to include: registered
national and community trademarks, geographical indications or designations of origin, and, in as far as they are protected under national law in the Member-State where they are held: unregistered trademarks, trade names, business identifiers, company names, family names, and distinctive titles of
protected literary and artistic works.

16. As a consequence, this Panel is of the view that:

(i) The documentary evidence provided by the Complainant shows this latter owns a nominative community trademark "CREDIT MUTUEL" and several French semi-figurative trademarks "CREDIT MUTUEL" which are, from the opinion of the Panel, famous trademarks, in the sense of Article 6 of the Paris Union Convention.

(ii) The domain name <lecreditmutuel.eu> is confusingly similar to the trademarks of the Respondent.

17. The remaining issue is then to decide whether the domain name <lecreditmutuel.eu> has been registered by the Respondent without rights or legitimate interest or wether it has been registered or used in bad faith by the Respondent.

18. In this respect, the first point on which the Panel would like to draw the attention is that no response has been submitted.

19. As the Respondent did not submit any Response, the Panel has done some searches on web databases. However, the Panel did not find any element (as described in Article 21(2) of the Regulation) which may have been called upon by the Respondent.

20. The second point is that the Respondent does not exploit any web site in connection of goods or services linked with the "lecreditmutuel" name, neither using the <lecrediutmutuel.eu> domain name.

21. Furthermore, as a French citizen, the Respondent could not ignore the existence of the well-known trade marks of the Complainant.

22. Therefore it is the Panel's opinion that the behaviour of the Respondent constitutes bad faith.

23. Morever, considering all the above elements in the present Case and Paragraph B10 of the ADR Rules, the Panel considers the failure of the Respondent to comply with its obligation and time periods under the ADR Rules as grounds to accept the claims of the Complainant.

24. As the Complainant, a French registered company, satisfies the general eligibility criteria set out in Article 4(2)(b)(i) of Regulation (EC) No. 733/2002, the domain name is transferred to the Complainant.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name LECREDITMUTUEL.EU be transferred to the Complainant.

PANELISTS

Name	**Frédéric Sardain**

DATE OF PANEL DECISION 2016-09-09

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: lecreditmutuel.eu

II. Country of the Complainant: France, country of the Respondent: France

III. Date of registration of the domain name: February 10, 2016

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:

1. "CREDIT MUTUEL", French semi-figurative trademark from July 8, 1988, in classes 35 and 36 of 1957, renewed on August 27th, 2008;
2. "CREDIT MUTUEL", French semi-figurative trademark from November 20, 1990 in classes 16, 35, 36, 38 and 41, renewed on September 15th, 2010;
3. “CREDIT MUTUEL”, word Community trademark from May 5th, 2011 in classes 9, 16, 35, 36, 38, 41, 42, 45;
4. "CREDIT MUTUEL" semi-figurative International trademark from May 17, 1991 in classes 16, 35, 36, 38 and 41, designating Benelux, Italy and Portugal, renewed on February 28th, 2011;

V. Response submitted: No

VI. Domain name/s is confusingly similar to the protected right/s of the Complainant: Yes

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why: The Respondent has no relevant rights.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: As a French citizen, the Respondent could not ignore the existence of the well-known trade marks of the Complainant.

IX. Other substantial facts the Panel considers relevant: -

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant: the failure of the Respondent to comply with its obligation and time periods under the ADR Rules

XII. Is Complainant eligible? Yes