Panel Decision for dispute CAC-ADREU-007753

Case number	CAC-ADREU-007753
Time of filing	2019-06-03 13:50:48
Domain names	adhesion-creditmutuel.eu

Case administrator

Lenka Náhlovská (Case admin)

Complainant

Organization	CONFÉDÉRATION NATIONALE DU CRÉDIT MUTUEL

Respondent

Name	selerine clerget

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 any other legal proceedings relating to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is the political and central body for the banking group CREDIT MUTUEL, which is the second largest French banking and insurance services group. Present in all fields of finance, the group is a major actor on the market of banking services for both individuals and businesses and is embedded in France as well as abroad.

The Complainant owns different trademarks for “Credit Mutuel”, including:
- French word/device mark CREDIT MUTUEL with registration no. 1475940 of July 8, 1988, in classes 35 and 36;
- French word/device mark CREDIT MUTUEL with registration no. 1646012 of November 20, 1990 in classes 16, 35, 36, 38 and 41;
- European Union word mark CREDIT MUTUEL with registration no. 9943135 of May 5th, 2011 in classes 9, 16, 35, 36, 38, 41, 42 and 45;
- International registration of word/device mark CREDIT MUTUEL with registration no. 570182 of May 17, 1991 in classes 16, 35, 36, 38 and 41, designating Benelux, Italy and Portugal.
(the trademarks hereinafter individually and jointly referred to as the “Trademark”)

The Respondent registered the disputed domain name <adhesion-creditmutuel.eu> on December 17, 2018. The disputed domain name is inactive.

A. COMPLAINANT

The Complainant contends that the disputed domain name is confusingly similar to the Trademark, which is entirely reproduced in the disputed domain name. The sole difference between the disputed domain name and the Trademark being the addition of a hyphen and the descriptive term “adhesion” to the disputed domain name. According to the Complainant this is not sufficient to avoid the likelihood of confusion in the public mind as the term “adhesion” could refer to the subscription of new customers of the Complainant or to the subscription of new banking services.

The Complainant further contends that the Respondent lacks a right or legitimate interest in the disputed domain name as the Respondent is not commonly known by the disputed domain name, was not licensed or authorized to register the disputed domain name. The Complainant considers the disputed domain name having been registered to take advantage of the Trademark’s reputation. According to the Complainant the Respondent also acts as respondent in domain name cases before WIPO and AFNIC (pending WIPO case D2019-0440 concerning the domain names <adhesion-creditmutuel.com> and <adhesion-creditmutuel.net>, and pending AFNIC case concerning the domain name <adhesion-creditmutuel.fr>).

Further, the Complainant contends that Respondent has registered or used the disputed domain name in bad faith. According to the Complainant the Trademark has a reputation in the field of banking and financial services, particularly in Europe, and it seems impossible the Respondent was not aware of the Complainant and the Trademark when he registered the disputed domain name, considering, moreover, that some other identical domain names with ".com", ".net" and ".fr" top level domain names were registered by the Respondent.

The Complainant also claims that the Respondent's use of the disputed domain name constitutes bad faith as the disputed domain name is inactive, which could be understood as a passive holding of the disputed domain name in bad faith.

B. RESPONDENT

The Respondent did not file a response.

DISCUSSION AND FINDINGS

In absence of a Response, the Respondent has not rebutted any of the Complainant's allegations. In accordance with Paragraph B10 (1) ADR Rules the Panel shall proceed to a decision on the Complaint and consider the Respondent's failure to file a Response as ground to accept the claims of the Complainant, and the Panel shall draw such inferences therefrom as it considers appropriate (Paragraph 10B (2) ADR Rules).

Under Article 21 (1) of the Regulation (EC) No. 874/2004 in order to succeed under this dispute resolution procedure the Complainant must show that the disputed domain name:
(i) is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or Community law and; either
(ii) has been registered by the Respondent without rights or legitimate interest in the name; or
(iii) has been registered or is being used in bad faith.

The three elements are discussed below.

First element

The Trademark is a recognized by national and Community law. The Panel finds that the disputed domain name is confusingly similar to the Trademark. The Respondent has taken the Trademark in its entirety, and merely added the descriptive term "adhesion" with a hyphen at the beginning of the disputed domain name. Neither the added term nor the hyphen do not prevent the disputed domain name to be confusingly similar to the Trademark, and the term "adhesion" may actually contribute to the likelihood of confusion as the term, especially in French, may mean "join" or "subscribe to" and may lead to an Internet user into believing that he can become the Complainant's customer.

Second element

The Complainant must show a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name, which the Respondent may rebut (see Paragraph I. Procedural questions, section 17 of CAC Panel Views on Selected Questions of the Alternative Dispute Resolution for .EU Domain Name Disputes, 2nd Edition
("CAC .EU Overview 2.0")).

The Panel takes note of the various allegations of the Complaint and in particular that the Respondent is not known under the disputed domain name or a similar name, no authorization has been given by the Complainant to the Respondent to use the Trademark or to register the disputed domain name, the reputation of the Trademark and the fact that the disputed domain name has been passively held by the Respondent. The allegations of the Complainant remain unchallenged. There is no evidence before the Panel to show that the Respondent has rights or legitimate interests in the disputed domain name. The Panel therefore finds that the Complainant has satisfied the second element of Article 21 (1) of the Regulation (EC) No. 874/2004.

Third element

According to Article 21 (1) of the Regulation (EC) No. 874/2004 it is sufficient that the Complainant shows that the Respondent either registered or used the disputed domain name in bad faith (cf. Paragraph V. Bad faith, Section 1 CAC .EU Overview 2.0).

The Panel is satisfied that the Trademark has a reputation for banking related goods and services in at least a part of the European

Union, including France, Germany, Spain, Belgium and Luxembourg. The Panel agrees with the panel in WIPO Case No. D2012-0813, Confédération Nationale du Crédit Mutuel v. Simo Madridoxi, who decided “[E]ven though it is conceivable that someone could use the French words “credit” and “mutuel” in their descriptive manner, the Respondent has not put forward any evidence to establish a connection with banking or financial services”. Like the panel in that case the Panel in the dispute at hand has no doubt that the Respondent registered the disputed domain name with the Trademark in mind, which constitutes registration in bad faith.

Accordingly, the third and last element has been met as well.

DECISION

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

PANELISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2019-06-03

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: adhesion-creditmutuel.eu

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

III. Date of registration of the domain name: [XX Month XXXX]

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. French word/device mark CREDIT MUTUEL with registration no. 1475940 of July 8, 1988, in classes 35 and 36;
2. French word/device mark CREDIT MUTUEL with registration no. 1646012 of November 20, 1990 in classes 16, 35, 36, 38 and 41;
3. European Union word mark CREDIT MUTUEL with registration no. 9943135 of May 5th, 2011 in classes 9, 16, 35, 36, 38, 41, 42 and 45;
4. International registration of word/device mark CREDIT MUTUEL with registration no. 570182 of May 17, 1991 in classes 16, 35, 36, 38 and 41, designating Benelux, Italy and Portugal.

V. Response submitted: No

VI. Domain name is confusingly similar to the protected rights of the Complainant

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why: the Respondent is not known under the disputed domain name or a similar name, no authorization has been given by the Complainant to the Respondent to use the trademarks or to register the disputed domain name, the reputation of the trademarks and the fact that the disputed domain name has been passively held by the Respondent.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: the Panel has no doubt that the Respondent registered the disputed domain name with the Complainant's trademarks in mind.

IX. Other substantial facts the Panel considers relevant: n/a

X. Dispute Result: Transfer of the disputed domain name.

XI: Procedural factors: The Respondent did not file a response. The Panel proceeded to a decision on the Complaint and considered the Respondent’s failure to file a Response as ground to accept the claims of the Complainant, and the Panel shall draw such inferences therefrom as it considers appropriate.

XII. If transfer to Complainant, Is Complainant eligible? Yes