

ADMINISTRATIVE PANEL DECISION

Caceis Bank v. suzanne brun
Case No. D2023-3951

1. The Parties

The Complainant is Caceis Bank, France, represented by Gevers Legal, Belgium.

The Respondent is suzanne brun, France.

2. The Domain Name and Registrar

The disputed domain name <caceis-groupe.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 21, 2023. On September 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 22, 2023, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on September 26, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On September 26, 2023, the Respondent sent an email communication to the Center claiming that it agrees to the transfer of the disputed domain name. On September 27, 2023, the Center sent an email communication to the Parties inquiring on their interest in the suspension of the proceedings for the discussion of a potential settlement agreement. On September 29, 2023, the Complainant requested the suspension of the proceedings and therefore the center notified the parties of the suspension of the proceedings on the same date.

On October 18, 2023, the Complainant sent an email communication to the Center requesting the reinstatement of the proceedings. On October 20, 2023, the Center notified the parties of the reinstatement of the administrative proceedings.

The Complainant filed an amendment to the Complaint on October 25, 2023.

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 October 26, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 15, 2023.

The Center appointed Elise Dufour as the sole panelist in this matter on November 28, 2023. 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 an asset servicing bank dedicated to asset managers, banks, institutional and corporate clients.

As a subsidiary branch of group Crédit Agricole S.A. it offers a broad range of services covering execution, clearing, depositary and custody, fund administration, fund distribution and a number of other related services. Its activities are carried out through offices which are located across Europe, North America, and Asia.

The Complainant owns trademark registrations for CACEIS in numerous jurisdictions around the world, including:

- the European Union trademark registration No. 004643573, CACEIS (word), filed on September 21, 2005, and registered on February 26, 2008, for services in international class 36;
- the International trademark registration No. 879274 CACEIS (word), registered on September 21, 2005, for goods and services in international classes 9, 16, 35, 36, 38, 41, and 42.

The disputed domain name was registered on September 14, 2023, and leads to a webpage providing sponsored Pay-Per-Click (“PPC”) links (the Website) to third party websites. Furthermore, Mail exchanges (“MX records”) have been activated on the disputed domain name.

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 (i) the disputed domain name is confusingly similar to its earlier trademarks, (ii) that the Respondent has no rights or legitimate interests in the disputed domain name, and (iii) that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

The Respondent did not formally reply to the Complainant’s contentions but on September 26, 2023, the Respondent sent an informal communication in French stating that the Respondent agrees to the transfer of the disputed domain name.

6. Discussion and Findings

In the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent.

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the trademark CACEIS for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the trademark CACEIS 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 term and element there, "-groupe" may bear on assessment of the second and third elements, the Panel finds the addition of such term and element 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.

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 Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the disputed domain name as a trademark or acquired trademark rights or is commonly known by the disputed domain name. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services. The Respondent's use of the disputed domain name is rather evidence of bad faith, see below.

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 the well-known character of the Complainant's trademark, the composition of the disputed domain name (being it a term in French "groupe", language of the Complainant's and country of origin) and use of the disputed domain name. It makes it most probable that the Respondent was aware of the Complainant and its prior rights when the Respondent registered the disputed domain name. Based on the record, including the use of the disputed domain name, it appears that the Respondent has tried to trade off the reputation and goodwill associated with the Complainant's CACEIS trademark. The Respondent is using the disputed domain name to resolve to a webpage providing PPC links to websites of third parties, some of which appear to offer services that are similar to the Complainant's services. In doing so, the Respondent was most likely seeking commercial gain from the likelihood of confusion between the Complainant's trademark and the disputed domain name.

Moreover, the Respondent appears to have activated MX records. The Respondent's communication to transfer the disputed domain name can also be considered as an admission that the registration and use of the disputed domain name was in bad faith. Both point to bad faith.

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 <caceis-groupe.com> be transferred to the Complainant.

/Elise Dufour/

Elise Dufour

Sole Panelist

Date: December 12, 2023