

## **ADMINISTRATIVE PANEL DECISION**

### **Confédération Nationale Du Crédit Mutuel v. Spanish Flnances Gonzalees Case No. D2023-4387**

#### **1. The Parties**

The Complainant is Confédération Nationale Du Crédit Mutuel, France, represented by Meyer & Partenaires, France.

The Respondent is Spanish Flnances Gonzalees, France.

#### **2. The Domain Name and Registrar**

The disputed domain name <cremutexpress.com> (the “Disputed Domain Name”) is registered with HOSTINGER Operations, UAB (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 23, 2023. On October 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 26, 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 (Domain Admin, Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 26, 2023, 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 October 31, 2023.

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 November 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 22, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the commencement of Panel Appointment Process on November 29, 2023. The Respondent sent an email communication to the Center on November 1, 2023.

The Center appointed Isabelle Leroux as the sole panelist in this matter on December 7, 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 a French association founded in 1901, the political and central body for the banking group Credit Mutuel, which is a French banking and insurance group.

The Complainant operates a web portal available at “www.creditmutuel.com” (registered on October 28, 1995) and “www.creditmutuel.fr” (registered on August 9, 1995) dedicated to its services, including online banking services.

For the needs and purposes of its activities, the Complainant is also the owner, amongst others of:

- French word trademark CREDIT MUTUEL No. 1475940, registered on July 8, 1988, subsequently renewed, in classes 35 and 36, and
- European Union word trademark CREDIT MUTUEL No. 18130616, registered on September 30, 2019, in classes 7, 9, 16, 35, 36, 38, 41 and 45.

In addition, the trademark CREDIT MUTUEL has been recognized as well-known by previous UDRP decisions (See *Confédération Nationale du Crédit Mutuel v. Mariano Jackline* and *Alex Leparox*, WIPO Case No. [D2013-2134](#), *Confédération Nationale du Crédit Mutuel v. Philippe Marie*, WIPO Case No. [D2010-1513](#))

The Disputed Domain Name <cremutexpress.com> was registered on September 15, 2023, and used to revert to an active website offering banking and financial services. It now reverts to an error page.

Based on the information disclosed by the Registrar, the Respondent is “Spanish Finances Gonzales”, located in Guyane, France.

#### 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 confusingly similar to the Complainant’s trademarks, since it reproduces the terms of its well-known trademark CREDIT MUTUEL in their shortened form “CRE” and “MUT”, with addition of the generic word “express”.

The Complainant further states that the confusion is accentuated by the usage, in the colloquial French language, of the abbreviation “CREDIT MUT” for “CREDIT MUTUEL”. It was asserted that “CREMUT” is thereby highly similar to “CREDIT MUT”. This commonly used abbreviation is reportedly identifiable in Google Search results and Google Suggestions.

Moreover, it was highlighted that the outcomes of a Google Search for “CREMUT” affirm the association between this name and the trademark CREDIT MUTUEL. Specifically, the primary result of a Google Search for “CREMUT” leads to the official website of CREDIT MUTUEL, confirming the correlation.

- (ii) The Respondent has no rights or legitimate interests in the Disputed Domain Name since the Respondent is not sponsored by or affiliated or licensed with the Complainant in any way and the Complainant has not given to the Respondent the permission to use its trademarks in any manner, including in domain names.
- (iii) The Respondent registered and used the Disputed Domain Name in bad faith.

Bad faith registration: The Disputed Domain Name was registered by the Respondent on September 15, 2023, several decades after the Complainant's trademark registrations.

Bad faith use: The Complainant has asserted that the Respondent's website at <cremutexpress.com> purportedly represents an official banking entity named CREDIT EXPRESS-CME, but in reality, it does not.

The alleged offer of banking and financial services is deemed illegitimate for several reasons:

- The entity referred to as CREDIT EXPRESS-CME does not exist as an accredited financial entity (Annex E).
- Incomplete mandatory legal notices are provided for a banking services website (Annex D7).
- The absence of a disclosed postal address on the website.

Consequently, the Complainant considers that these pieces of evidence indicate that the holder of the Disputed Domain Name and the associated website is feigning to operate as an official entity, or potentially attempting to establish an unwarranted connection with the Complainant. Such conduct is considered as an act of impersonation and is strictly prohibited by law.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions. The Respondent sent one email communication on November 1, 2023 stating: "Yes, I confirm."

## **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.

Based on the available record, the Panel finds 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 mark is recognizable 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.

Panels have already considered that a domain name containing a shortening of a trademark is confusingly similar to this trademark, where at least a dominant feature of the relevant mark is recognizable in the domain name (See *Groupe Royer v. Withheld for Privacy Purposes*, *Privacy service provided by Withheld / Morton Palmerston <kickbottes.online>*, WIPO Case No. [D2021-1660](#); [WIPO Overview 3.0](#), section 1.7).

The addition of the generic Top-Level Domain ("gTLD") ".com" does not either prevent a finding of confusing similarity.

Although the addition of other terms “express” 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.

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.

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 Respondent registered the Disputed Domain Name partially incorporating the Complainant’s distinctive and well-known CREDIT MUTUEL trademark (see also earlier UDRP decisions in which the respective panels decided that such trademarks is well-known). The trademark registrations predate the registration date of the Disputed Domain Name by many years and the Panel considers that the Respondent, located in France (Guyana), where the Complainant has its main business and is specifically well-known, has intentionally and opportunistically targeted the Complainant’s trademark at the time of registering the Disputed Domain Name.

With regard to the Disputed Domain Name’s usage in bad faith, the Panel observed that the Respondent previously maintained an active website presenting banking and financial services, resembling an official banking entity named “CREDIT EXPRESS-CME”. However, upon thorough examination of the available evidence, the Panel concludes that this supposed entity is non-existent and lacks any legal accreditation as a legitimate financial institution. The intention being to mislead consumers.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the Disputed Domain Name constitutes 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 <cremutexpress.com> be transferred to the Complainant.

*/Isabelle Leroux/*

**Isabelle Leroux**

Sole Panelist

Date: December 21, 2023