Decision for dispute CAC-UDRP-101811

Case number	CAC-UDRP-101811
Time of filing	2017-12-15 09:35:48
Domain names	amundi-asset.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	AMUNDI S.A.

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Kempen Co

OTHER LEGAL PROCEEDINGS

The panel is not aware of any other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant´s group is the owner of International Trademark 1024160 AMUNDI, for services in class 36, dated 24 September 2009.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant finds that Respondent is not commonly known by the domain name under paragraph 4(c)(ii)of the UDRP Policy.

See IndyMac Bank F.S.B. v. Eshback, FA 830934 (Forum Dec. 7, 2006) (finding that the Respondent failed to establish rights and legitimate interests in the <emitmortgage.com> domain name as the Respondent was not authorized to register domain names featuring the Complainant's mark and failed to submit evidence of that it is commonly known by the disputed domain name).

See Compagnie de Saint Gobain v. Com-Union Corp., D2000-0020 (WIPO Mar. 14, 2000) (finding no rights or legitimate

interest where the respondent was not commonly known by the mark and never applied for a license or permission from the Complainant to use the trademarked name).

The disputed domain name points to a parking page with commercial links (“PPC”) in relation to the Complainant and its competitors.

See Ashley Furniture Industries, Inc. v. domain admin / private registrations aktien gesellschaft, FA1506001626253 (Forum July 29, 2015) (“Respondent is using the disputed domain name to resolve to a web page containing advertising links to products that compete with those of Complainant. The Panel finds that this does not constitute a bona fide offering or a legitimate noncommercial or fair use.”).

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

I. IDENTICAL OR CONFUSINGLY SIMILAR

The disputed domain name reproduces the Complainant’s mark ‘AMUNDI’, merely adding the generic expression "‘ASSET’" at the end, which merely describes the Complainant’s activity. Furthermore, the owner of International Trademark AMUNDI is recorded as Amundi Asset Management.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s registered trademark.

II. NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent has not submitted any reply. Therefore, it has submitted no information on possible rights or legitimate interests it might hold. On its part, the Complainant has submitted information and arguments which allow it to be reasonably assumed that the Respondent has no rights or legitimate interest in the disputed domain name.

The Respondent has not filed a Response and is therefore in default. In such circumstances when the Respondent has no obvious connection with the disputed domain names, the prima facie showing by the Complainant that the Respondent has no right or legitimate interest is sufficient to shift the burden of proof to the Respondent to demonstrate that such a right or legitimate interest exists (see WIPO Case No. D2002-0273 <sachsenanhalt>; WIPO Case No. D2002-0521

<volvovehicles.com>).

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

III. BAD FAITH

The Respondent has, as a result of his default, not invoked any circumstances which could invalidate the Complainant´s allegations and evidence with regard to the Respondent´s registration and use of the disputed domain name in bad faith.

Paragraph 4(b) (iiii) of the Policy provides that the following circumstances are deemed to be evidence that the Respondent has registered and is using the disputed domain name in bad faith:

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain,

Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation or endorsement of its website or location or of a product orservice on its website or location.

The Complainant's AMUNDI trademark is well known precisely for assets management, well before the registration of the disputed domain name. The Respondent's registration of the disputed domain name wholly incorporating a well-known thirdparty mark is, in the Panel´s view, indication of bad faith.

Currently, the Respondent´s website points to a parking page with commercial links (“PPC”) in relation to the Complainant and its competitors. Therefore, the Complainant´s trade mark and company name are unfairly exploited for the Respondent’s commercial interest.

It has, therefore, been satisfactorily demonstrated to the Panel that the disputed domain name has been registered and used in bad faith.

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **AMUNDI-ASSET.COM**: Transferred

PANELLISTS

Name	**José Ignacio San Martín**

DATE OF PANEL DECISION 2018-01-16

Publish the Decision