Decision for dispute CAC-UDRP-101798

Case number	CAC-UDRP-101798
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Domain names	wwwamundi-ee.com

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	AMUNDI S.A.

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Transure Enterprise Ltd

OTHER LEGAL PROCEEDINGS

The Complainant has declared that there are no such proceedings, and the Panel is not aware of any such proceedings.

IDENTIFICATION OF RIGHTS

The Complainant's trademark AMUNDI was registered on 29 September 2009 in class 36 (various financial services), in France and via the Madrid system (1024160). It operates websites setting out details of its services at <AMUNDI.COM> and <AMUNDI-EE.COM>; these domain names were registered in 2004 and 2009 respectively, and form part of a wider portfolio of names registered by the Complainant in various TLDs.

FACTUAL BACKGROUND

The Complainant Amundi SA is a financial services corporation with its seat in Paris, France. It is active in the field of asset management, and is a subsidiary of two large financial institutions; it, and its parents, operate at the global scale and are, by various measures, ranked as significant in size and successful. Its trademark AMUNDI was registered on 29 September 2009 in class 36 (various financial services), in France and via the Madrid system (1024160). It operates websites setting out details of its services at <AMUNDI.COM> and <AMUNDI-EE.COM>; these domain names were registered in 2004 and 2009 respectively, and form part of a wider portfolio of names registered by the Complainant in various TLDs.

The Respondent Transure Enterprise Ltd has an address in Delaware, USA. It registered, through a proxy service, the disputed domain name <WWWAMUNDI-EE.COM> on 27 June 2017.

The abbreviation “EE“ is used by the Complainant for the phrase “epargne entreprise” - often used in the longer phrase ‘plan d’epargne enterprise’ (PEE) (company savings plan) to designate a particular form of tax-efficient savings scheme commonly known and availed of in France.

PARTIES CONTENTIONS

No administratively compliant response has been filed. It is not known whether the written notice was received by the Respondent, although confirmations of the successful relay of e-mail messages were received by the CAC.

The Complainant argues that the criteria in the UDRP are present and that the disputed domain name should be transferred to it. Reference is made to a range of past decisions of this Provider (e.g. CAC Case no.: 101442), regarding other domain names containing the string Amundi. Reference is also made to the presence of advertising links (for the Complainant and its competitors) on a basic website accessible at the disputed domain name.

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).

The relevant trademark is AMUNDI. The differences between the mark and the disputed domain name are the letters “EE“ (which, as noted above, are used by the Complainant in the disputed domain name, and indeed generally in France to designate a particular financial services product) and the letters “WWW“.

The addition of a generic or descriptive term to that term in which the Complainant has rights is often no barrier to a finding of confusing similarity. In this case (although the Complainant does not spell it out very clearly), the descriptive use of “EE“ increases the prospect of confusing similarity, because it is one of the financial services offered by the Complainant. A helpful set of examples of this phenomenon is set out in a decision of the CAC Panel in respect of .eu domain name (interpreting in this context a comparable requirement as under the UDRP) Case no. 06295 and in UDRP decisions CAC Case no. 101296; CAC Case no. 101555; and (concerning numbers correspondent with products of a Complainant) WIPO Case no. D2011-1920.

The addition of “WWW“ is typically disregarded by UDRP Panels as not negating confusing similarity, given its common use in the formation of URLs. See for instance WIPO Case no. D2012-2354.

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).

The Complainant has asserted that the Respondent has not been authorised to use the disputed domain name, nor is the Respondent related in any way to the Complainant’s business.

There is no content at the disputed domain name that could raise a realistic issue regarding rights or legitimate interests. Because the disputed domain name is a combination of a trademark and, arguably, a type of product, such material could require the Complainant to provide evidence that would demonstrate why no legitimate interests are pursued. For instance, such a website could provide impartial information on that product, albeit in a context where endorsement is explicitly disavowed by relevant text. However, in this case, the general advertising links on the website at the disputed domain name fall very far short of this situation.

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).

The Complainant contends that the Respondent registered the disputed domain name primarily for the purpose of disrupting the business of a competitor. However, the evidence presented by the Complainant, and the Panel's assessment of it, points instead towards paragraph 4(b)(iv) of the Policy: that the Respondent has 'intentionally attempted to attract, for commercial gain, Internet users to the website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location'.

The presence of pay per click advertising on the website is an indication of commercial gain. The Respondent has taken no positive steps, to the knowledge of the Panel, to displace the possible likelihood of confusion through the use of a name corresponding closely to a trademark held by and existing website operated by the Complainant (see WIPO Case no. D2013-1409).

The Respondent has chosen to register a name consisting of the mark and an abbreviation also used by the Complainant for its services and on one of its existing websites. It is likely that the Respondent would have been aware of this website, as the suffix “EE“ would not occur in any other context.

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

The reasons for the decision are as set out under the various components, above.

In the absence of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name. On the other hand, it is clear that the Complainant has rights in respect of the trademark AMUNDI, as it has been the case in previous cases in front of other Panels. In light of the evidence presented regarding the use of the disputed domain name by the Respondent in this case, and the legal findings as set out above, the Panel can find that the disputed domain name was registered and is being operated in bad faith. The requirements for the acceptance of a Complaint under paragraph 4 of the UDRP have therefore been met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **WWWAMUNDI-EE.COM**: Transferred

PANELLISTS

Name	**Prof Daithi Mac Sithigh**

DATE OF PANEL DECISION 2018-01-22

Publish the Decision