Decision for dispute CAC-UDRP-102025

Case number	CAC-UDRP-102025
Time of filing	2018-05-28 09:51:19
Domain names	bankamundi.com

Case administrator

Name	Sandra Lanczová (Case admin)

Complainant

Organization	AMUNDI S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Daniel Podaru

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which relate to the disputed domain name.

FACTUAL BACKGROUND

The disputed domain name was registered on 19 May 2018.

The domain is currently not in use.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant ("AMUNDI") is a subsidiary of the French companies "Crédit Agricole" and "Société Générale". The Complainant was created in 2010. The Complainant claims to rank in the global top 10 of asset management companies, managing assets worth more than € 1.452 trillion worldwide.

The Complainant is the owner of several trademarks which include the term “AMUNDI”, such as the international registration n°1024160 AMUNDI registered since 24 September 2009.

The Complainant also owns several domain names which consist of the term "AMUNDI".

1.The Complainant contends that the domain name <bankamundi.com> is confusingly similar to its registered trademarks AMUNDI and to its domain names. The Complainant argues that the addition of the term "BANK" does not neutralise or diminish the confusing similarity. On the contrary, the addition of the English word "BANK" increases the likelihood of confusion with the Complainant's trademarks and activity, since the word "BANK" refers to "Crédit Agricole", a well-know French bank and the majority shareholder of the Complainant.

2. The Complainant further argues that the Respondent does not have any rights or legitimate interest in the disputed domain name. The Complainant contends that, according to the information available on the Whois database, the owner of the disputed domain name is “Contact Privacy Inc. Customer 1242698219. Since the Whois information of the Respondent is not similar to the disputed domain name, the Complainant concludes that the Respondent is not known by the disputed domain name. The Complainant confirms that the Respondent is not related in any way to the Complainant, and was not authorised by the Complainant to use its trademark "AMUNDI" or register the domain name. The Complainant emphasises that the disputed domain name has been inactive since its registration. The Complainant contends that the Respondent has no demonstrable plan to use the disputed domain name.

3. The Complainant contends that the domain name has been registered and is being used in bad faith. The Complainant claims that its trademark "AMUNDI" is well-known. The Complainant asserts that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks. The Complainant emphasises that the disputed domain name has been inactive since its registration. The Complainant furthermore claims that the incorporation of its famous mark into the disputed domain name, coupled with an inactive website, is evidence of bad faith registration and use.

RESPONDENT:

The Respondent contends that he has recently registered the disputed domain name in good faith. The Respondent purports that the disputed domain name refers to "Banka Mundi", a Hindu deity. The Respondent claims that he is still building his website and will publish it when ready. The Respondent used a privacy service for the Whois records because he did not want to be spammed.

The Respondent claims that the complaint is abusive. The Respondent refers to the fact that the combination of letters “amundi” is found in other words such as “baramundi”. The Respondent claims that the baramundi.com software company is a contra example to the “confusion” that the Complainant is claiming.

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

1. Confusing similarity

The Complainant is the company “AMUNDI S.A.”, with its address at Immeuble Cotentin 90, boulevard Pasteur, 75015 Paris, France.

The Complainant claims to be the owner of several trademarks including the term “AMUNDI”. The Complainant submitted evidence of one trademark that includes the term “AMUNDI”, i.e. the international trademark registration n°1024160 “AMUNDI”, registered on 24 September 2009.

This international trademark n°1024160 is registered in name of the company “AMUNDI ASSET MANAGEMENT”, with its address at 102 rue du Faubourg Saint-Honoré, 75008 Paris, France. This seems to be a different company than the Complainant. Based on the facts and circumstances described in the Complaint, the Panel considers that the Complainant is an affiliate of the trademark owner and has, as such, rights in the trademark under the UDRP for purposes of standing to file this complaint.

The disputed domain name consists of the Complainant's trademark "AMUNDI", with the addition of the word "BANK".

Numerous previous panels have accepted that the incorporation of a trademark in its entirety into a domain name is sufficient to establish that the disputed domain name is identical or confusingly similar to a registered trademark. Indeed, in most cases where a domain name incorporates the entirety of a trademark, the domain name is, for the purposes of the Policy, considered as confusingly similar to the trademark (see for example, the detailed discussion of this topic in Research in Motion Limited v. One Star Global LLC WIPO Case No. D2009-0227).

In this case, the Panel notes that the disputed domain name incorporates the entirety of the Complainant’s "AMUNDI" trademark. The Panel finds that the addition of the descriptive term "BANK" and the “.com” gTLD does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy. Rather, the addition of the English word "BANK", to the "AMUNDI" trademark serves to induce the association that the public can be expected to make, taking into account that the "AMUNDI" trademark is registered for - inter alia - banking services and that the ".com" gTLD is of a potentially global scope.

The ".com" suffix may be disregarded when it comes to considering whether a domain name is confusingly similar to a trademark in which the Complainant has rights.

The Panel concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

2. Rights or legitimate interests

As regards paragraph 4(a)(ii) of the Policy, while the overall burden of proof rests with the Complainant, it is commonly accepted that this should not result in an often-impossible task of proving a negative. Therefore, numerous previous Panels have found that the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the Respondent fails to come forward with such appropriate allegations or evidence, the Complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. If the Respondent does come forward with some allegations or evidence of relevant rights or legitimate interests, the panel then has to weigh all the evidence, with the burden of proof always remaining on the Complainant.

The Panel notes that the Complainant contends that: (1) because the Whois information of the Respondent is not similar to the disputed domain name, the Respondent is not known by the disputed domain name; (2) the Respondent is not related in any way to the Complainant, and is not authorised by the Complainant to use the trademark "AMUNDI" or register the domain

name; (3) the domain name has been inactive since its registration; (4) the Respondent has no demonstrable plan to use the disputed domain name.

The Panel notes that the Respondent contends that: (1) the disputed domain name refers to the Hindu deity "Banka Mundi"; (2) the Respondent's website is not yet ready; (3) the Respondent used a privacy service for the Whois records to safeguard his privacy rights; and (4) the concept “amundi” is found in other words such as n the word “baramundi”, and is thus not exclusive to the Complainant.

The Panel weighs these arguments as follows:

The Complainant states that the Respondent is not related to the Complainant. This is not refuted by the Respondent. The Complainant further states that the Respondent was not authorised by the Complainant to register the domain name or to make use of its trademark "AMUNDI", let alone in combination with the word "BANK". Given the fact that the Respondent is not related to the Complainant or the trademark owner, and given the fact that the Complainant's registered trademark "AMUNDI" is registered for banking services and that the Respondent added precisely the word "BANK" to the Complainant's trademark, the Panel finds that the Complainant has at least made a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name.

The Panel finds the other arguments of the parties of little persuasiveness:

The fact that the Respondent used a privacy service and that the Whois information is not similar to the disputed domain name does not automatically result in a finding of lack of rights or legitimate interests.

The fact that the disputeddomain name has been inactive since its registration does not necessarily point to a lack of rights or legitimate interests. The Panel emphasises that the disputed domain name was created on 19 May 2018, and that the complaint was filed barely 9 days later on 28 May 2018. Given this short time period, the non-use of the domain name can not be held against the Respondent.

It is correct that the combination of letters in “amundi” is found in other words such as “baramundi”. However, this does not mean that the Respondent has rights or legitimate interests in the combination of the concepts "amundi" and "bank", as is reflected in the disputed domain name.

According to the Complainant, the Respondent has no demonstrable plan to use the disputed domain name. The Respondent answers that the domain name refers to the Hindu deity "Banka Mundi". However, the Respondent did not provide any explanation or evidence of the use he intends to make of this domain name. Given the substantiated claims of the Complainant, and in particular the trademark rights of the Complainant, the Panel expected the Respondent to provide appropriate evidence and convincing arguments of the rights or legitimate interests he claims in the domain name (for instance, as a referral to the Hindu goddess "Banka Mundi"). The Panel has not been given any details of the reasons why the Respondent wants to make use of a domain name that purportedly refers to a Hindu goddess, but that also refers to the registered trademark of the Complainant ("AMUNDI") and to the services for which this trademark is registered ("BANK"). The Respondent did not provide any evidence of his intended use, nor of the preparations that he has taken for this use, in particular in relation to the Hindu deity "Banka Mundi".

In order for the Respondent to find rights or legitimate interests in the disputed domain name based on its referral to the Hindu goddess "Banka Mundi", the Panel finds that the domain name should be genuinely used or at least demonstrably intended for such use, in connection with the relied-upon meaning. However, the Panel finds no evidence of such use or intentions/preparations in the case at hand.

The Panel realises that the time period between the creation of the disputed domain name and the filing of the complaint was short, and that the Respondent had relatively little time to make any preparations to use the domain name. On the other hand, in light of a credible, well-documented and convincing claim (constituting a so called 'prima facie' case), the Panel finds that the response should also be inherently credible and supported by evidence or at least by an explanation of the

circumstances of the case.

In sum, the Panel finds that the Complainant did make a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Panel further finds that the Respondent failed to provide appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. In particular, the Panel finds that the Complainant provided sufficient evidence that the Respondent is not related to the Complainant and did not have any authorisation to use the Complainant's mark in combination with the word "bank" in the disputed domain name. The Respondent claims that the domain name refers to a Hindu deity called "Banka Mundi", but failed to support its claim by any evidence or by any explanation of the circumstances surrounding his claim. In conclusion, the Panel finds that the claim of the Respondent is non-verifiable and lacks credibility.

The Panel concludes that the Respondent does not have rights or legitimate interests in the disputed domain name.

3. Bad faith

The Complainant contends that its trademark "AMUNDI" is well-known, and that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark(s). The Complainant contends that the incorporation of its well-known mark into the disputed domain name, coupled with an inactive website, is evidence of bad faith registration and use.

The Respondent contends that he has registered the domain name in good faith. The Respondent further argues that the domain name refers to the Hindu deity "Banka Mundi", and that his website is not yet ready. The Respondent also claims that the combination of letters “amundi” is found in other words such as “baramundi”.

The Panel weighs these arguments as follows:

The Complainant’s "AMUNDI" trademark registration predates the registration of the disputed domain name.

The disputed domain name reflects the Complainant's registered trademark "AMUNDI" in its entirety, with the addition of the word "BANK".

The Complainant's "AMUNDI" trademark is valid for several services in class 36, inter alia "direct banking" and "banking services".

The combination of the Complainant's trademark "AMUNDI" and the word "BANK" (covering a sub-class for which the Complainant's trademark is registered) is an indication of bad faith.

Moreover, the Panel finds that this finding of bad faith is confirmed by the following factors.

Both the Complainant and the Respondent are based in France.

The Complainant claims that it ranks in the global top 10 of asset management companies worldwide and that it manages assets worth more than € 1.452 trillion. The Complainant provided screenshots of its website that confirm this claim. The Respondent did not refute this claim.

On the balance of probabilities, it may be expected that the Respondent had knowledge of the existence of the Complainant and its activities, and of the existence of the Complainant's trademarks and the scope of these trademarks (i.e. coverage of banking services). In light of this, it seems highly unlikely that the Respondent would not have been aware of the unlawful character of the disputed domain name at the time of its registration and use.

As discussed above, there is no evidence supporting the claim of the Respondent that it registered the disputed domain name as a reference to the Hindu Goddess "Banka Mundi". Indeed, the Respondent failed to provide any evidence of this

claim or of the factual circumstances surrounding this claim (e.g., the Respondent did not provide any explanation or evidence on the intended use of the domain name or of the referral to the Hindu Goddess "Banka Mundi").

Also, the Panel considers that the Respondent could have opted to register a domain name that does not create confusion with the Complainant's trademarks. For instance, if the Respondent had the intention to dedicate a website to the goddess "Banka Mundi", he could have opted to register a domain name with e.g. a hyphen between the words "Banka" and "Mundi".

Given the combination of the word "BANK" and the Complainant's trademark "AMUNDI" in the disputed domain name, given the scope of the activities of the Complainant, given the well-known or at least highly specific character of the Complainant's trademark in the sector of banking and asset management, given the fact that both parties are based in the same country and that it can be expected that the Respondent had knowledge of the Complainant, given the lack of evidence of actual or contemplated good-faith use, and given the lack of evidence of any circumstances refuting the claim of bad faith, the Panel finds it likely that the Respondent was aware or should have been aware of the Complainant's trademark rights when registering the disputed domain name.

In conclusion, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BANKAMUNDI.COM**: Transferred

PANELLISTS

Name	**Bart Van Besien**

DATE OF PANEL DECISION 2018-06-19

Publish the Decision