Decision for dispute CAC-UDRP-102089

Case number	CAC-UDRP-102089
Time of filing	2018-08-01 08:24:00
Domain names	pioneerinvestments.app

Case administrator

Name	Sandra Lanczová (Case admin)

Complainant

Organization	Amundi Pioneer Asset Management USA, Inc.

Complainant representative

Organization	Nameshield (Daria Baskova)

Respondent

Name	anthony Zannini

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

The reputation of the Complainant's trademarks and domain names is self-evident and proved by the following documents:

Evidence enclosed:

- Complainant's trademarks
- Complainant's domain names

Furthermore Complainant's trademarks extensively registered around the world.

FACTUAL BACKGROUND

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

Amundi Pioneer Asset Management USA, Inc. is the subsidiary of the AMUNDI group, Europe’s largest asset manager by assets under management and ranks in the top 10 globally. Thanks to the integration of Pioneer Investments in July 2017, it now manages over 1.4 trillion euros of assets across six investment hubs (please see their website:

www.pioneerinvestments.com).

The Complainant relies on its extensive experience and close partnerships with wealth managers, distribution platforms, and retail networks in Europe, Asia-Pacific and North America to offer customized products, innovative services and value-added investment advice that best fit retail clients' needs and risk profiles. Amundi is Europe's undisputed number one asset manager, with leadership positions in key continental markets: it is ranked n°1 in France, it is in the top 3 in Italy and Austria, and it is a premier international player in Germany. The integration of Pioneer Investments in July 2017 provides Amundi with enhanced distribution capabilities in North America and a full suite of management capabilities to better meet the needs of investors in Asia-Pacific and the Middle East.

The Complainant is the owner of the numerous trademarks for "PIONEER INVESTMENTS" over the world, including the European trademark No. 001125798 registered since June 2nd, 2000 and the European trademark No. 001879709, registered since February 26th, 2002.

The Complainant also owns several domain names consisting in the distinctive wording PIONEER INVESTMENTS®, such as <pioneerinvestments.us>, registered since February 23d, 2005.

The disputed domain name <pioneerinvestments.app> was registered on July 5th, 2018.

The domain name refers to an inactive webpage.

The disputed domain name <pioneerinvestments.app> is identical to the Complainant's trademark PIONEER INVESTMENTS®.

Moreover, a Google search for the term "PIONEER INVESTMENTS" results in the multiple search results linked to the Complainant. Given the reputation and fame of the Complainant, as well as the prior registration of an almost identical official domain name by the Complainant, the Respondent was aware of the existence of the prior rights of the Complainant at the time of the registration of the disputed domain name. Furthermore, the choice of the new gTLD extension "app" is even likely to increase the likelihood of confusion with the Complainant's trademark, since it suggests that the disputed domain name leads to for mobile application of the Complainant.

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).

The addition of the new gTLD extension "app" at the end of the domain name is not a sufficient element to escape the finding that the domain name is confusingly similar to the Complainant's trademarks and domain names.

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 contends that the Respondent is not affiliated with him nor authorized by him in any way to use its trademarks in a domain name or on a website. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Furthermore, the disputed domain name points to an inactive website since its registration.

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).

Given the distinctiveness of the trademark and the content of the website, it is clear that the Respondent registered the disputed domain name in knowledge of the Complainant and its trademarks.

All these elements lead to the conclusion that the Respondent has intentionally attempted to attract Internet users to the Respondent's website for commercial gain by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of such websites.

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. The three essential issues under the paragraph 4(a) of the UDRP Policy are whether:

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 with respect to the disputed domain name; and

iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain names, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant has clearly proven that it is a long standing and successful company in the asset management business. It is clear that its trademarks and domain names “pioneerinvestments” are well-known.

The Complainant states and proves that the disputed domain name is confusingly similar to its trademarks and its domain names. Indeed, the trademark is partially incorporated in the disputed domain name.

The disputed domain name is therefore deemed identical or confusingly similar.

b) It has to be stressed that it was proven that there are no fair rights of the Respondent to the disputed domain name. The Respondent is not generally known by the disputed domain name and have not acquired any trademark or service mark rights in the name or mark.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain name.

c) The disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder. Therefore there cannot be seen any legitimate interest of the Respondent.

It is clear that the Complainant's trademarks and website(s) were used by the Complainant long time before the disputed domain name was registered and used. It is therefore concluded that the disputed domain name was registered with an intention to attract customers of another well-known domain name/registered trademark holder.

The Panel therefore finds that the disputed domain name has been registered and is being 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 UDRP Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **PIONEERINVESTMENTS.APP**: Transferred

PANELLISTS

Name	**Dr. Vít Horáček**

DATE OF PANEL DECISION 2018-08-27

Publish the Decision