Decision for dispute CAC-UDRP-102167

Case number	CAC-UDRP-102167
Time of filing	2018-09-18 09:08:28
Domain names	pioneersgruop.com

Case administrator

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

Complainant

Organization	AMUNDI S.A.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Funk Oruoma

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of International trademark no. 1398148 AMUNDI PIONEER, registered since January 11, 2018. It also owns, through its American subsidiary PIONEER INVESTMENT

MANAGEMENT USA INC., several “PIONEER” trademarks, including European Union Trade Mark "PIONEER INVESTMENTS" registration 001125798, registered on June 2, 2000.

The Complainant is also, through its subsidiaries around the world, the owner of several domain names including the expression “PIONEER GROUP”, such as:

- <pioneergroup.eu> registered since June 7, 2006;
- <pioneergroup.at>;
- <pioneergroup.ch>;
- <pioneergroup.tel> registered since February 3, 2009.

FACTUAL BACKGROUND

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

The Complainant is a subsidiary jointly created in 2010 by Crédit Agricole (80%) and Société Générale (20%) to regroup their asset management activities. AMUNDI ranks in the worldwide top 10 in the asset management industry with an AUM of more than € 850 billion worldwide.

As European market leader, AMUNDI is recognized in asset management circles for product performance and transparency, quality of client relationships based on a long-term advisory approach, efficiency in its organization and its teams' promise to serve its clients, commitment to sustainable development, and socially responsible investment policies.

Thanks to the integration of PIONEER INVESTMENTS in July 2017, it now manages over 1.4 trillion euros of assets across six investment hubs.

The disputed domain name was registered on September 3, 2018.

The website linked to the disputed domain name is a blank page displaying the message “Index of”.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

1. The disputed domain name is confusingly similar to the Complainant's trademarks

The Complainant states that the disputed domain name is confusingly similar to its AMUNDI PIONEER trademark and to the PIONEER INVESTMENTS trademarks registered through its American subsidiary PIONEER INVESTMENT MANAGEMENT USA INC.

In support of this claim, the Complainant refers to prior UDRP cases and affirms that it is a well-established principle that when a domain name wholly incorporates the Complainant's registered mark, the first requirement under the UDRP shall be considered accomplished.

Further, the Complainant asserts that the addition of the term "GRUOP" [sic] is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark. In fact, the addition of the word “Gruop”, a corruption of the English word “Group”, increases the likelihood of confusion with the Complainant’s trademark and activity, because it refers to the concept of (the Complainant's) corporate group which was created following the integration of PIONEER INVESTMENT.

2. The Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant contends that the Respondent is not affiliated with nor authorized by AMUNDI S.A. in any way. The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant does not carry out any activity for, nor has any business with, the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s trademark, or apply for registration of the disputed domain name by the Complainant.

3. The disputed domain name has been registered and is being used in bad faith

The Complainant contends that it is inconceivable that the Respondent could have registered the disputed domain name without actual knowledge of Complainant's rights in the trademarks AMUNDI PIONEER and/or PIONEER INVESTMENTS.

The Complainant asserts that the Respondent fails to make an active use at the disputed domain name, and that failure to make an active use of the disputed domain name is evidence of bad faith. The Complainant further states that, by choosing to associate the term “PIONEER” with the term “GRUOP”, which immediately brings to mind the Complainant's corporate group created following the integration of PIONEER INVESTMENT, the Respondent was targeting the Complainant.

RESPONDENT:

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

A) Confusing similarity

The disputed domain name partially contains the Complainant’s registered trademarks AMUNDI PIONEER and PIONEER INVESTMENTS with the addition of the generic term "GRUOP".

This Panel agrees with the Complainant's and previous Panels' view, that the addition of a generic term associated with a trademark does not create a new or different right to the mark, nor diminish confusing similarity, and that the addition of certain words, as in this case the term "GRUOP", can increase the confusing similarity between the Complainant’s trademark and the disputed domain name, and increase the risk of confusion between the disputed domain name and the trademark.

The Panel is therefore of the opinion that although the Complainant’s marks contain other elements such as AMUNDI and INVESTMENTS, there is still confusing similarity between the Complainant’s trademarks and the disputed domain name. In fact, especially referring to the second mark, where “investments” is a descriptive element, we see that the “heart” of the trademark, “PIONEER”, is contained in its entirety in the disputed domain name and it is therefore fully recognizable by the public.

B) Lack of legitimate rights or interests

The disputed domain name is a distinctive, non-descriptive name. It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant’s assertions that the Respondent is not

commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of the absence of rights or legitimate interests in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.

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

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark, and so the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

Secondly, the Panel accepts the Complainant's unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant's trademark.

Thirdly, it appears that the Respondent is passively holding the disputed domain name.

Fourthly, the Respondent has not responded to nor denied any of the assertions made by the Complainant in this proceeding.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **PIONEERSGRUOP.COM**: Transferred

PANELLISTS

Name	**Dr. Fabrizio Bedarida**

DATE OF PANEL DECISION 2018-10-16

Publish the Decision