

Decision for dispute CAC-UDRP-102235

Case number CAC-UDRP-102235

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Domain names amundipoineer.com

Case administrator

Name Šárka Glasslová (Case admin)

Complainant

Organization AMUNDI ASSET MANAGEMENT

Complainant representative

Organization Nameshield (Enora Millocheau)

Respondent

Organization Fundacion Comercio Electronico

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings, pending or decided, relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant, AMUNDI ASSET MANAGEMENT, is the owner of the French trademark AMUNDI PIONEER No. 4 375549, registered July 11, 2017, covering services in class 36.

The Complainant also owns the following domain names:

- <amundi-pioneer.com> registered March 10, 2017;
 - <amundipoineer.com> registered February 20, 2017.
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FACTUAL BACKGROUND

The Complainant is a subsidiary jointly created in 2010 by Crédit Agricole and Société Générale to regroup their asset management activities. The Complainant states that it ranks in the worldwide top 10 companies in the asset management industry, with more than 100 million customers worldwide. The Complainant has offices in 37 countries across the world. It manages over 1,4 trillion euros of assets across six investment hubs. Such facts are not contested by the Respondent.

The Complainant has also shown that it owns valid trademark rights in France as well as several domain name registrations.

The Respondent registered the disputed domain name, <amundi-pioneer.com> on November 19, 2018.

PARTIES CONTENTIONS

The Complainant contends that the disputed domain name should be transferred because each of the three elements required in paragraph 4(a) of the Policy has been established.

Firstly, the Complainant asserts that the disputed domain name is confusingly similar to the protected trademark. Complainant states that the mere inversion of the letters "I" and "O" in the disputed domain name, as well as in the gTLD <.com>, is not sufficient to dispel the likelihood of confusion. According to the Complainant, such a slight difference in the order of the letters makes it a case of typosquatting.

Furthermore, the Complainant refers to a CAC decision which acknowledged its rights in the sign "AMUNDI PIONEER" (CAC Case No. 101483, AMUNDI ASSET MANAGEMENT v. Syed Hussain / Domain Management MIC, <amundipioneer.com>).

Secondly, the Complainant contends that the Respondent has no rights nor legitimate interest in the disputed domain name. The Complainant claims that the Respondent is not commonly known by the disputed domain name because the WHOIS information is not similar to the disputed domain name. Also, the Complainant claims that it has no affiliation with the Respondent and that the latter has not been licensed or authorized by the Complainant to use its trademark.

In addition, the Complainant provides a screenshot of the disputed domain name dated November 21, 2018 which shows that the disputed domain name redirects to a parking page featuring several pay-per-click links. The Complainant states that such use of the domain name is not a bona fide offering of goods and services nor is it a legitimate noncommercial or fair use.

Finally, the Complainant alleges that the disputed domain name was registered in bad faith because the misspelling in the term "pioneer" was designed to generate confusion with the Complainant's trademark. As for the use of the disputed domain name in bad faith, the Complainant contends that using the disputed domain name in relation to a parking page featuring several commercial links shows that the Respondent intended to cause confusion in order to deceive Internet users and did so to gain commercially from the advertisements displayed on the web page.

The Respondent did not reply to the Complainant's contentions and is therefore in default.

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. Complainant has rights over AMUNDI PIONEER

The Complainant has demonstrated that it is the owner of the French trademark AMUNDI PIONEER No. 4 375549, registered July 11, 2017, covering services in class 36. This trademark predates the registration of the disputed domain name for more than a year.

The disputed domain name incorporates the Complainant's trademark AMUNDI PIONEER in its entirety, the sole difference between the two being the inversion of the letters "I" and "O" in the term "pioneer". The Panel agrees that this inversion of letters is a minor variant of Complainant's trademark, which characterizes typosquatting, where a domain name creates a virtually identical and/or confusingly similar mark to the Complainant's trademark so that Internet users who misspell Complainant's trademark when searching for it are diverted to Respondent's website.

Typosquatting was recognized, for instance, in the CAC Case No. 102221, Arcelor Mittal SA v. lykelink, where the disputed domain name <arcelomrittal.com> only slightly varied from the trademark "ARCELOR MITTAL" by the inversion of the letters "R" and "M".

In addition, gTLDs – such as <.com> in our case – must not be taken into consideration when assessing the likelihood of confusion since they are only a technical requirement (See e.g. Crédit Agricole S.A. v. Roy M Oishi, CAC case No. 101545).

Consequently, the Panel finds that the disputed domain name is highly similar to the Complainant's trademark and that the Complainant has met its burden of showing that the disputed domain name is confusingly similar to the mark in which the Complainant has valid trademark rights within the meaning of paragraph 4(a)(i) of the Policy.

B. Respondent has no Rights or Legitimate Interests

It clearly appears from the observations submitted by the Complainant that there is no affiliation between the Complainant and the Respondent and that the Complainant did not authorize the Respondent to use its trademark or to register the disputed domain name.

Furthermore, the Respondent is not commonly known by the disputed domain name as the Whois information indicates that the registrant is Fundaction Comercio Electrico.

Moreover, the Complainant provided a screenshot dated November 21, 2018 showing that the disputed domain name resolves to a parking page featuring sponsored links related to the Complainant's field of activity. The Panel agrees that such use is not enough to characterize a bona fide offering of goods and services in relation with the disputed domain name. Also, the Panel notes that the use of the disputed domain name has changed since the beginning of the procedure as it now resolves to random pages reproducing famous trademarks and offering Internet users the opportunity to win goods, such as smartphones. Such use does not prove either that the Respondent has rights or a legitimate interest in the disputed domain name.

Therefore, in the Panel's view, the Complainant has shown a prima face case that the Respondent lacks rights or legitimate interests in the disputed domain name.

For this reason, the burden of proof shifts from the Complainant to the Respondent, who has not answered the complaint. It should be noted that "Lack of any response is another element against Respondent's legitimate use or interest in the dispute domain name" (See e.g. Loro Piana S.p.A. v. Robert Remy, CAC Case No. 101595).

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

C. Respondent registered and used the disputed domain name in bad faith

Considering how the <amundipioneer.com> domain name is constructed, it seems implausible that the Respondent did not have the Complainant's trademark "AMUNDI PIONEER" in mind when registering the disputed domain name.

Although the Respondent appears to be based in Panama whereas the Complainant invokes a French trademark, because of the Complainant's notoriety and because the Respondent did not contest the Complainant's contentions, the Panel believes that the Respondent registered the disputed domain name with the goal that Internet users would believe that the disputed domain name was registered or at least approved by the Complainant., in particular since the Complainant's trademarks for the sign "AMUNDI" have been recognized as being well known by previous Panels (CAC Case No. 101483, AMUNDI ASSET MANAGEMENT v. Syed Hussain / Domain Management MIC <amundipioneer.com>).

Therefore, the Panel finds that the disputed domain name was registered in bad faith.

Regarding the use of the disputed domain name in bad faith, the Panel takes note that the website to which the disputed domain name resolves is a parking page carrying sponsored links relating to the Complainant's field of activity, as was shown on the screenshot provided by the Complainant. Previous Panels have considered that such use of a domain name demonstrated "some knowledge and an attempt to leverage the reputation of the trademark" (CAC Case No. 102233, Geox S.p.a. v. Jeongyong Cho).

Even though, as previously stated, the disputed domain name now points to pages displaying various famous trademarks and offering users the chance to win products, such modifications do not affect the Panel's opinion that the disputed domain name is being used in bad faith.

In view of the above, the Complainant has shown to the satisfaction of the Panel, that 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.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. AMUNDIPOINEER.COM: Transferred

PANELLISTS

Name	Nathalie Dreyfus
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DATE OF PANEL DECISION 2019-01-15

Publish the Decision
