Decision for dispute CAC-UDRP-102350

Case number	CAC-UDRP-102350
Time of filing	2019-02-12 09:43:23
Domain names	pioneerinvesment.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	AMUNDI PIONEER ASSET MANAGEMENT USA, INC.

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	George Washere

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of EU trademark registrations no. 001125798 for the word mark "PIONEER INVESTMENTS", registered on June 2, 2000 and no. 001879709 for the figurative mark "PIONEER investments", registered on February 26, 2002.

FACTUAL BACKGROUND

The disputed domain name <pioneerinvesment.com> was registered in the name of a privacy service on February 4, 2019. It resolves to a parking page with sponsored commercial links, together with a link to the SEDO website, where the disputed domain name is offered for sale for US$799. Upon the Complaint being filed, the Registrar identified the Respondent as the registrant.

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

Since 2017 the Complainant has been a subsidiary of the AMUNDI group, Europe’s largest asset manager by assets under management, ranking in the top 10 globally and having distribution capabilities in North America.

The Respondent is not related in any way with the Complainant. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither licence nor authorization has been granted by the Complainant to the Respondent to make any use of the Complainant's trademark nor to apply for registration of the disputed domain name.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant contends that this is a clear case of typosquatting. The disputed domain name is confusingly similar to the Complainant's PIONEER INVESTMENTS trademarks and the Respondent has no rights or legitimate interests with respect to the disputed domain name, which was registered and is being used in bad faith.

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 respondent is not obliged to participate in a proceeding under the Policy but if it fails to do so, asserted facts may be taken as true and reasonable inferences may be drawn from the information provided by the complainant: Reuters Limited v. Global Net 2000, Inc., WIPO Case No. D2000-0441.

Ignoring the gTLD ".com", usually considered inconsequential for the purposes of paragraph 4(a)(i) of the Policy, the Panel finds that the disputed domain name <pioneerinvesment.com> is virtually identical and confusingly similar to the Complainant's PIONEER INVESTMENTS trademarks, since it differs only in the absence of the two letters "t" and "s".

As to legitimacy, the Complainant contends that the disputed domain name is a typosquatted version of the PIONEER INVESTMENTS trademark. Typosquatting is the practice of registering a domain name in an attempt to take advantage of Internet users' typographical errors and can be evidence that a respondent lacks rights and legitimate interests in the domain name. The Complainant cites FORUM Case No. FA 970871, Vance Int'l, Inc. v. Abend (concluding that the operation of a pay-per-click website at a confusingly similar domain name does not represent a bona fide offering of goods or services or a legitimate noncommercial or fair use, regardless of whether or not the links resolve to competing or unrelated websites or if the respondent is itself commercially profiting from the click-through fees); WIPO Case No. D2007-1695, Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe ("Respondent's use of a domain name confusingly similar to Complainant's trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use."); and FORUM Case No. 1597465, The Hackett Group, Inc. v. Brian Herns / The Hackett Group ("The Panel agrees that typosquatting is occurring, and finds this is additional evidence that Respondent has no rights or legitimate interests under Policy paragraph 4(a)(ii).")

The Panel is satisfied that the Complainant's PIONEER INVESTMENTS trademarks are well known in many countries, including North America, where the Respondent is domiciled. The Complainant's assertions are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that he does have rights or legitimate interests in the disputed domain name. See Cassava Enterprises Limited, Cassava Enterprises (Gibraltar) Limited v. Victor Chandler International Limited, WIPO Case No. D2004-0753. The Respondent has made no attempt to do so and accordingly the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

As to bad faith, the Respondent has registered and is using a domain name that differs from the Complainant's trademark only in the omission of the two letters "t" and "s" from the word "investments". This alone indicates bad faith registration and use. See FORUM case no. FA 157321 Computerized Sec. Sys., Inc. v. Hu ("The Panel finds that Respondent's registration and use of a domain name that differs from Complainant's mark by only one letter indicates "typosquatting", which is evidence of bad faith registration and use.")

The Complainant cites WIPO Case No. Case No. D2017-2003, Association des Centres Distributeurs E. Leclerc - A.C.D Lec v. Milen Radumilo ("The Panel takes the view that the redirection of the disputed domain name, which is confusingly similar to Complainant's LECLERC trademark, by means of a typical typo-squatting to a generic PPC website in order to generate pay-per-click revenues without Complainant's permission to do so, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to his own website, by creating a likelihood of confusion with Complainant's LECLERC trademark as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.")

The Panel is satisfied that the Respondent has registered and is using the disputed domain name <pioneerinvesment.com> intentionally to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's PIONEER INVESTMENTS trademarks as to the source, sponsorship, affiliation or endorsement of the Respondent's website.

Conclusions

The Panel hereby finds that all three elements under paragraph 4(a) of the Policy are met:

i. the disputed domain name is confusingly similar to a trademark 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

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **PIONEERINVESMENT.COM**: Transferred

PANELLISTS

Name	**Alan Limbury**

DATE OF PANEL DECISION 2019-03-11

Publish the Decision