# Decision for dispute CAC-UDRP-102364

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| Case number | CAC-UDRP-102364 |
| Time of filing | 2019-02-20 11:20:55 |
| Domain names | pioneerinvestmentgroup.com |

## Case administrator

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| Name | Šárka Glasslová (Case admin) |

## Complainant

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| Organization | AMUNDI PIONEER ASSET MANAGEMENT USA, INC. |

## Complainant representative

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| Organization | Nameshield (Enora Millocheau) |

## Respondent

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| Name | Frederic Brown |

OTHER LEGAL PROCEEDINGS

The panel is not aware of any other decided or pending legal proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of numerous trademarks for “PIONEER INVESTMENTS” over the world, including :
- the European trademark PIONEER INVESTMENTS® n° 001125798 registered since 2000-06-02 and duly renewed;
- the European trademark PIONEER Investments® n° 001879709 registered since 2002-02-26 and duly renewed;
- the US trademark PIONEER INVESTMENTS® n° 76257330 registered since 2004-03-23 and duly renewed.

FACTUAL BACKGROUND

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

Please see for instance WIPO Case No. Case No. D2018-1239, ACCOR v. Massa, Auchan <accorhotelgroup.com> (“The Panel finds that the Domain Name <accorhotelgroup.com> is confusingly similar with the ACCORHOTELS trademark of Complainant. The Domain Name incorporates the said trademark of Complainant in its entirety. This is sufficient to establish confusing similarity […] The omission of the letter “s” in the “hotels” portion of the Domain Name is disregarded as it merely signifies the singular grammatical number […] The word “group” which is added in the Domain Name is also disregarded as it is a non-distinctive dictionary term”)

Please see for instance FORUM Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> (“Here, the WHOIS information of record identifies Respondent as “Chad Moston / Elite Media Group.” The Panel therefore finds under Policy paragraph 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy paragraph 4(c)(ii).”)

Please see CAC Case No. 102089, Amundi Pioneer Asset Management USA, Inc. v. anthony Zannini, <pioneerinvestments.app> (“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.”)

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).

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 not, 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

1st CONDITION

The Complainant has attached to its complaint PDF files containing abstracts from official databases showing to the satisfaction of the Panel that it is the owner of the numerous trademarks for “PIONEER INVESTMENTS” over the world, including :
- the European trademark PIONEER INVESTMENTS® n° 001125798 registered since 2000-06-02 and duly renewed;
- the European trademark PIONEER Investments® n° 001879709 registered since 2002-02-26 and duly renewed;
- the US trademark PIONEER INVESTMENTS® n° 76257330 registered since 2004-03-23 and duly renewed.

To the Panel view, the disputed domain name <pioneerinvestmentgroup.com> is confusingly similar (only a letter "s" and the adjunction of the word "group").

2nd CONDITION

The Complainant contends - without contradiction - that the Respondent (i) The Respondent is not known by the disputed domain name, (ii) is not related in any way with the Complainant and (iii) does not carry out any activity for, nor has any business with, the Respondent.

3rd CONDITION

The Complainant contends that bad faith is evidenced by the following:

- Respondent has registered the disputed domain name several years after the registration of the trademarks by the Complainant, which has meanwhile established a strong reputation using this trademark (the Respondent knew of should have known about the Complainant's rights).

- the disputed domain name resolves to a website displaying several pictures related to real estate investment, allegedly operated by the company PIONEER INVESTMENT GROUP, while according to the information available, there is no such company operating in Georgia under that name and there is no element that can help the internet users to distinguish this website from the Complainant.

- the alleged activities are related to the Complainant ones (the Complainant is specialized in asset management, in particular in real estate investment) and there is a likelihood of confusion with the Complainant's activities.

According to most of UDRP decisions (including WIPO D2003-0455), the Complainant is required to make out a prima facie case that the domain name has been registered and is used in bad faith.

To the panel View, elements and information provided for by the Complainant at that stage, are not sufficient to establish such prima facie case, notably because of the following:

- because of the words forming the domain name and their meaning in English (pioneer + investment + group), there are many possible and credible reasons for the Respondent choosing such combination (it cannot be concluded, in the absence of additional specific element, that such choice was made in reference to the Complainant or because of the reputation of the Complainant);

- for the same reason (the meaning of the words forming the domain name), it cannot be concluded, in the absence of additional specific element, that the fact that both parties are active in the real estate sector is enough to evidence bad faith (the real estate sector is, for many people and companies, considered as an "investment", and the word "pioneer" is commonly used to give the impression of a provider with cutting-edge expertise, long experience or leading position in a sector).

- the domain name has been registered recently (Feb., 2019) and there is an active website (or, which leads to the same conclusions, the Complainant has not raised critics concerning the content of the website and the way it works - except the fact that it is related to real estate but this was analyzed here above);

- the only remarkable element is the fact that the Complainant contends that, according to the information available, there is no company operating in Georgia under the name PIONEER INVESTMENT GROUP. However, there are many explanations and situations which would resolve in the same situation in the absence of bad faith. Although this circumstance could lead to a bad faith conclusion if it was supported by other facts, this mere fact is not enough, in the Panel view, to establish bad faith registration and use (not even in a prima facie case).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **PIONEERINVESTMENTGROUP.COM**: Remaining with the Respondent

## PANELLISTS

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| Name | **Mr. Etienne Wéry** |

DATE OF PANEL DECISION 2019-04-08