Decision for dispute CAC-UDRP-102393

Case number	CAC-UDRP-102393
Time of filing	2019-03-14 09:22:55
Domain names	amundi-hk.com

Case administrator

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

Complainant

Organization	AMUNDI ASSET MANAGEMENT

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Name	Null Null

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the international trademark no 1024160 AMUNDI registered since September 24, 2009. The Complainant is also the owner of domain names including the trademark AMUNDI, such as the domain name <amundi.com>, registered and used since August 26, 2004. The disputed domain name <amundi-hk.com> was registered on March 8, 2019 and points to a parking page with commercial links.

FACTUAL BACKGROUND

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

The Complainant contends that is a subsidiary jointly created in 2010 by Crédit Agricole (80%) and Société Générale (20%) to regroup their activities of asset management. It ranks in the worldwide top 10 in the asset management industry, with more than 100 million customers worldwide. The Complainant is Europe's number one asset manager and has offices in 37 countries in Europe, Asia-Pacific, the Middle-East and the Americas.

The disputed domain name <amundi-hk.com> is confusingly similar to the Complainant’s trademark AMUNDI. Indeed, the trademark AMUNDI is included in its entirety. The Complainant contends that the addition of the abbreviation “HK” (which is

the country code for Hong Kong) and a hyphen is not sufficient to escape the finding that the disputed domain name is confusingly similar to the trademark AMUNDI. It does not change the overall impression of the designation as being connected to the Complainant's trademark AMUNDI. It does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trademark and the domain names associated. It is well-established that a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP despite the addition of generic or geographical terms.

The Complainant further contends that the addition of the generic Top-Level Domain suffix ".COM" does not change the overall impression of the designation as being connected to the trademark AMUNDI. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated.

Many UDRP decisions have confirmed the Complainant's rights such as CAC Case No. 102286, AMUNDI ASSET MANAGEMENT v. Jon Mac <amundi.capital> or CAC Case No. 102282, AMUNDI ASSET MANAGEMENT v. Joshua Johnson <amundidigitalassets.com>.

The Respondent does not have any rights or legitimate interest in the disputed domain name. The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a) (ii) of the Policy.

The Complainant asserts that the Respondent is not known as the disputed domain name but as "Null Null". Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name. (FORUM Case No. FA 1781783, FORUM Case No. FA 699652).

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and he is not related in any way to the Complainant's business. The Respondent is not affiliated with the Complainant nor authorized by him in any way to use the trademark AMUNDI. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Furthermore, the disputed domain name points to a parking page with commercial links. Past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use. 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 non-commercial 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 (FORUM case No. FA 970871, Vance Int'l, Inc. v. Abend).

Accordingly, the Respondent has no rights or legitimate interests to the disputed domain name.

The Complainant further contends that the disputed domain name is confusingly similar to its well-known trademark AMUNDI. All the results for a Google search are related to the Complainant presence in Hong Kong. Therefore, given the distinctiveness of the Complainant's trademarks and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks.

Furthermore, the disputed domain name points to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks, which is an evidence of bad faith. The registration and use of a domain name confusingly similar to a complainant's mark to direct Internet traffic to a commercial "links page" in order to profit from click-through fees or other revenue sources constitutes bad faith under Policy paragraph 4(b)(iv) (FORUM case No. FA 697821, T-Mobile USA, Inc. v. utahhealth).

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in

bad faith.

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, 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

For the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

(i) The 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 in respect of the domain name; and
(iii) The domain name has been registered and is being used in bad faith.

I. Identical or Confusingly Similar

The Complainant has established the fact that it has valid rights for the international trademark No 1024160 AMUNDI registered since September 24, 2009, and that it owns domain name <amundi.com> including the trademark AMUNDI. The disputed domain name has been registered on March 8, 2019, i.e. almost 10 years after the trademark registration, and wholly incorporates the Complainant's trademark and is therefore confusingly similar to it.

The term "HK" and the hyphen used between words "AMUNDI" and "HK" seems to be an abbreviation or country code for the Hong Kong territory where the Respondent resides according the WHOIS database. This term is, therefore, a geographical term that does not distinguish the disputed domain name from the Complainant's trademark. The term "AMUNDI" used in the disputed domain name is placed in the beginning of the domain name and is the dominant element of the domain name. The addition of the geographical term "HK" does not change the overall impression of the designation as being connected to the Complainant or its trademark and more likely could lead to the connection of the Complainant or its business to Hong Kong territory.

The addition of the generic top level domain ".COM" does not change the overall impression of the designation as being connected to Complainant's trademark as well.

The Panel therefore considers the disputed domain name to be confusingly similar to the Complainant's trademark AMUNDI which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

II. Rights or Legitimate Interests

The Complainant has established a prima facie case (not challenged by the Respondent who did not filed any response to the complaint) that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not related in any way with the Complainant.

The Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the term “AMUNDI” (the Respondent’s name is “Null Null” as follows from the WHOIS database and it seems to be more likely an attempt to hide the real name of the Respondent than his/her real name) or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

Moreover, the disputed domain name resolves to a parking web page with the commercial links and the disputed domain name, therefore, does not constitute a bona fide offering of goods and services or a legitimate non-commercial fair use.

The Panel therefore considers that the Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

III. Registered and Used in Bad Faith

It has been concluded in the past that the Complainant's trademark is well-known (CAC case No. 101803, AMUNDI v. John Crawford) and the knowledge of the trademark could be found in Hong Kong territory as well, while the use of term “HK” within the disputed domain name could lead to the connection of the Complainant or its business to Hong Kong territory. It could be therefore concluded that the Respondent had the Complainant and its trademark in mind when registering the disputed domain name.

Furthermore, the domain name resolves to a parking (or pay-per-click) webpage with the commercial links to third parties or services. The incorporation of a trademark into a domain name, coupled with an inactive website or with a parking page, in order to profit from click-through fees or other revenue sources constitutes bad faith registration and use.

The Panel therefore considers 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.

The Panel finally considers that the Complainant has shown that the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, the Respondent has no rights or legitimate interests in respect of the disputed domain name and the disputed domain name has been registered and is being used in bad faith. The Complainant has thus established all three elements of paragraph 4(a) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **AMUNDI-HK.COM**: Transferred

PANELLISTS

Name	**JUDr. Petr Hostaš**

DATE OF PANEL DECISION 2019-04-12

Publish the Decision