Decision for dispute CAC-UDRP-102696

Case number	CAC-UDRP-102696
Time of filing	2019-10-01 09:54:52
Domain names	amundioioneer.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (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 which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the trademark AMUNDI PIONEER (International Trademark Registration No. 1398148) registered on January 11, 2018.

The Complainant is also the holder of several domain names, including the domain names <amundi-pioneer.com>, registered on March 9, 2017, and <amundipioneer.com>, registered on February 19, 2017.

FACTUAL BACKGROUND

The Complainant, Amundi Asset Management, is Europe's largest asset manager by assets under management and ranks in the top 10 globally. The Complainant serves clients from all over the world, including Europe, Asia-Pacific, the Middle East and the Americas.

The disputed domain name, <amundioioneer.com>, was created on September 23, 2019 and redirects to different pages during each access, all of which are pages containing pay-per-click links ("PPC links"). Three of the pages redirected to contain PPC links relating to, inter alia, "DJ Equipment", "Cdj 2000" and "Djm 2000". One of the pages redirected to contains

PPC links relating to, inter alia, “Best Investments for 2019”, “Top Hedge Hund Companies” and “Mutual Fund Investments”.

PARTIES' CONTENTIONS:

COMPLAINANT

The Complainant contends that the disputed domain name is confusingly similar to the AMUNDI PIONEER mark on the basis that the disputed domain name wholly incorporates the Complainant’s trademark and there is an intentional misspelling of “pioneer” in the disputed domain name by substituting the letter “p” with the letter “o”.

The Complainant also argues that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent was not identified in the WhoIs database prior to verification by the registrar. In addition, the Respondent is not affiliated with the Complainant nor did the Complainant license or authorize the Respondent to use the AMUNDI PIONEER mark.

The Complainant further asserts that the disputed domain name has been registered and is being used in bad faith as the Respondent should have known of the Complainant’s AMUNDI PIONEER mark at the time of registration of the disputed domain name. The Complainant also asserts that the disputed domain name is being used in bad faith as the disputed domain name resolves to a webpage containing PPC links related to the Complainant.

RESPONDENT:

The Respondent did not reply to the Complainant’s contentions.

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. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the complainant to show that the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the trademark AMUNDI PIONEER.

The only differences between the disputed domain name <amundioioneer.com> and the Complainant’s AMUNDI PIONEER

trademark are the omission of the space between the words, the purposeful misspelling of the word “pioneer” and the addition of the generic Top-Level Domain (“gTLD”) suffix “.com”.

It is widely established that the omission of spaces between the components of a domain name is necessary for technical reasons (see Société Nouvelle Del Arte v. Domain Administrator, Domain Asset Holdings, LLC, WIPO Case No. D2016-1859). In addition, it is also established that the addition of a gTLD to a disputed domain name does not avoid confusing similarity as the use of a TLD is technically required to operate a domain name (see Accor v. Noldc Inc. WIPO Case No. D2005-0016; F. Hoffmann-La Roche AG v. Macalve e-dominios S.A., WIPO Case No. D2006-0451; Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003; L’Oréal v Tina Smith, WIPO Case No. 2013-0820; Titoni AG v Runxin Wang, WIPO Case No. D2008-0820; and Alstom v. Itete Peru S.A. WIPO Case No. D2009-0877). Thus, the omission of space between the words and the addition of the gTLD are without significance.

The disputed domain name is purposefully misspelled by replacing the letter “p” with “o”, which are letters that are on adjacent keys on a QWERTY and an AZERTY keyboard. The Panel is of the view that such a misspelling of the Complainant’s mark in the disputed domain name constitutes the act of typosquatting and does not avoid confusing similarity with the Complainant’s trademark (see Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd., WIPO Case No. D2015-2333; WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.9).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the AMUNDI PIONEER mark and the element under paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the complainant to show that the respondent has no rights or interests in respect of the domain name. Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the disputed domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the disputed domain name (see WIPO Overview 3.0, paragraph 2.1).

In the present case, the Complainant has demonstrated prima facie that the Respondent lacks rights or legitimate interests in respect of the disputed domain names and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant submitted evidence that it did not authorize or license the Respondent to use the AMUNDI PIONEER mark (See OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org, WIPO Case No. D2015-1149; Sanofi-Aventis v. Abigail Wallace, WIPO Case No. D2009-0735).

In addition, the evidence submitted by the Complainant shows that all the details of the registrant on the WhoIs database are blocked by a privacy shield. Thus, there is no evidence that the Respondent is commonly known by the disputed domain names.

Finally, the Complainant has submitted evidence showing that the disputed domain name redirects to a page containing PPCs. Past panels have found that such a use does not represent a bona fide offering (see Archer-Daniels-Midland Company v. Wang De Bing, WIPO Case No. D2017-0363; WIPO Overview 3.0, paragraph 2.9).

The Respondent did not submit a response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which is sufficient to rebut the Complainant’s prima facie case.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The Complainant must show that the Respondent registered and is using the disputed domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that an Internet search of the words "amundi oioneer" would lead to results relating to the takeover of the company Pioneer Investments by the Complainant. An Internet search conducted by the Panel with the words "amundi oioneer" leads to results relating to "amundi pioneer" and the Complainant. Given that the dominant part of the Complainant's mark is "AMUNDI" that is distinctive, it is clear that the Respondent had specifically targeted the Complainant. These factors are suggestive that the Respondent knew or should have known that its registration of the disputed domain name would be confusingly similar to the Complainant's mark (see WIPO Overview 3.0, paragraph 3.2.2).

The disputed domain name incorporates the Complainant's trademark in its entirety with the addition of the gTLD ".com" and an intentional misspelling of "pioneer" as "oioneer". The disputed domain name could be arrived at by a mere typographical error committed by unsuspecting Internet users as the substituted letter "o" is beside the letter "p" that it replaces in the term "pioneer" in both QWERTY and AZERTY keyboards. Unsuspecting Internet users may be misled to the disputed domain name website when they commit such a typographical error. The Panel finds that such an act by the Respondent amounts to typosquatting intended to confuse and/or mislead Internet users seeking or expecting the Complainant. Previous UDRP panels ruled that in such circumstances "a likelihood of confusion is presumed, and such confusion will inevitably result in the diversion of Internet traffic from the Complainant's site to the Respondent's site" (see Edmunds.com, Inc v. Triple E Holdings Limited, WIPO Case No. D2006 1095). To this end, prior UDRP panels have established that attracting Internet traffic by using a domain name that is identical or confusingly similar to a registered trademark may be evidence of bad faith under paragraph 4(b)(iv) of the Policy.

The Complainant has submitted evidence that the disputed domain name <amundioioneer.com> redirects to a page that displays PPC links relating to, inter alia, "Dj Mixer", "Cdj 2000" and "Djm 2000". When the Panel accessed the disputed domain name, the disputed domain name redirected to different pages during each access, of which one is a page displaying PPC links relating to, inter alia, "Best Investments for 2019", "Top Hedge Hund Companies" and "Mutual Fund Investments", that are terms related to the Complainant's industry. Taken together with the confusing similarity between the disputed domain name and the Complainant's AMUNDI PIONEER mark, this further indicates that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark.

In addition, the Respondent did not submit a Response in this proceeding and used a privacy shield to hide their identity, as shown in the WhoIs database page submitted by the Complainant. These are all further indications of the Respondent's bad faith, which were considered by the Panel.

Based on the evidence presented to the Panel, including the confusing similarity between the disputed domain name and the Complainant's mark, the fact that the disputed domain name redirects to pages containing PPC links and the fact that no Response was submitted by the Respondent, the Panel draws the inference that the disputed domain name was 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. **AMUNDIOIONEER.COM**: Transferred

PANELLISTS

Name	**Mr. Jonathan Agmon**

2019-11-19

DATE OF PANEL DECISION 2019-11-18

Publish the Decision