Decision for dispute CAC-UDRP-102742

Case number	CAC-UDRP-102742
Time of filing	2019-10-23 08:44:58
Domain names	amundi-fr.com

Case administrator

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

Complainant

Organization	AMUNDI ASSET MANAGEMENT

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Diane Holetz

OTHER LEGAL PROCEEDINGS

There are no other legal proceedings the Panel is aware of which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is - among others - the owner of the international trademark registration n°1024160 AMUNDI, registered on September 24, 2009, and of several domain names including the trademark "AMUNDI", like <amundi.com> which has been registered on August 26, 2004.

FACTUAL BACKGROUND

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

The Complainant is the first European asset manager in terms of assets under management (EUR 1,425 billion), with offices in 37 countries worldwide and over 100 million retail, institutional and corporate clients. The Complainant is the owner of the trademark "AMUNDI", registered at an international level, and of the domain name <amundi.com>, both registered before the disputed domain name.

The Respondent has registered <amundi-fr.com> on October 17, 2019 and - as of this day - the latter has not been used in connection with an active website.

The Complainant affirms that (i) the disputed domain name is almost identical to its trademark, (ii) that the Respondent has no right nor legitimate interest in it and (iii) that the domain owner acted in bad faith.

The Respondent did not reply to such observations.

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

1. The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to the Complainant's trademarks (within the meaning of paragraph 4(a)(i) of the Policy). In particular, the Panel finds that the disputed domain name is almost identical to the Complainant's trademark "AMUNDI".

In this regard, it shall be noted that <amundi-fr.com> exactly reproduces the trademark "AMUNDI", with the mere addition of the verbal portion "fr", which is generally considered an abbreviation for "France".

When a disputed domain name consists of the Complainant's full trademark followed by a geographical term, it is very likely to confuse consumers, who might erroneously believe that the domain is somehow connected with Complainant's local business activity (in this case, in France).

The Complainant also mentioned previous WIPO and CAC decisions confirming the confusing similarity of domain names in cases very similar to the present one (see, in particular, CAC Case No. 102393, AMUNDI ASSET MANAGEMENT v. Null Null <amundi-hk.com> and CAC Case No. 102288, AMUNDI ASSET MANAGEMENT v. Amundi <amundi-usa.com>).

2. 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).

The Panel finds that the Complainant successfully submitted prima facie evidence that the Respondent has made no use of, or demonstrable preparations to use, neither of the disputed domain name in connection with a bona fide offering of goods or services, nor is making a legitimate non-commercial or fair use of the disputed domain name, nor is commonly known under the disputed domain name. This prima facie evidence was not challenged by the Respondent, which did not file any Response to the complaint filed by Amundi Asset Management.

As a matter of fact, there are no arguments why the Respondent could have own rights or legitimate interests in the disputed domain name. "AMUNDI" definitely is a distinctive sign used by the Complainant both as business name and as trademark in order to denote its services. Therefore, the Panel accepts the contentions of the Complainant that the Respondent has no such rights or legitimate interests in <amundi-fr.com>.

3. The Complainant has, to the satisfaction of the Panel, shown the disputed domain name to has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

There is no explanation proving that the Respondent has made use of, or demonstrable preparations to use, of the disputed domain name in connection with a bona fide offering of goods or services, nor that it is making a legitimate non-commercial or fair use of the disputed domain name, nor that is commonly known as <amundi-fr.com>. Actually the configuration of e-mail servers to operate with the disputed domain name could represent an attempt to start phishing activities.

In the absence of a Response and given the considerable reputation of the Complainant and its trademarks, the Panel infers that the Respondent had the Complainant's trademarks "AMUNDI" in mind when registering the disputed domain name. As a matter of fact, it is not possible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate, such as by being a passing off, an infringement of consumer protection legislation, or an infringement of the Complainant’s rights under trademark law.

As prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use (WIPO - D2000-0003 - Telstra Corporation Limited v. Nuclear Marshmallows and WIPO - D2000-0400 - CBS Broadcasting, Inc. v. Dennis Toeppen).

Consequently, the Panel believes that the same was registered and is being (passively) used in bad faith, in order to prevent the Complainant from reflecting the mark in the disputed domain name.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Tommaso La Scala**

DATE OF PANEL DECISION 2019-11-28

Publish the Decision