Decision for dispute CAC-UDRP-102815

Case number	CAC-UDRP-102815
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Domain names	amundj.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	AMUNDI ASSET MANAGEMENT

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Organization	Oznet Cyber Security

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, inter alia, of the following trademark registration consisting of or comprising AMUNDI:

International Trademark registration No. 1024160 for AMUNDI (word mark), registered on September 24, 2009, in class 36.

The Complainant is also the owner of several domain names including the trademark AMUNDI, such as the domain name <amundi.com>, registered on August 26, 2004.

FACTUAL BACKGROUND

The Complainant is a European leading asset manager with offices in 37 countries in Europe, Asia-Pacific, Middle East and America. It manages €1,425 billion in assets for over 100 million retail, institutional and corporate clients.

The disputed domain name <amundj.com> was registered on December 05, 2019 and is pointed to a web page requesting login information and displaying in the heading the wording “ethical phishing”.

PARTIES CONTENTIONS

A. COMPLAINANT

The Complainant points out that the disputed domain name <amunj.com> is confusingly similar to its trademark AMUNDI as it contains an obvious misspelling of the Complainant's trademark AMUNDI (i.e. the substitution of the "i" by the "j").

The Complainant contends that this is a clear case of "typosquatting" and that, as previous panels have found, a slight variation in the spelling does not prevent a disputed domain name from being confusingly similar to the Complainant's trademark.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant states that Respondent has no rights or legitimate interests since it is not commonly known by the disputed domain name.

Moreover, the Complainant underlines that the Respondent is in no way related to the Complainant, is not affiliated or in any way authorized by the Complainant in any way to use the trademark AMUNDI and does not carry out any activity for, or have any business with, the Respondent.

The Complainant also claims that the fact that the disputed domain name is a typosquatted version of the trademark AMUNDI only serves to further prove that the Respondent lacks rights and legitimate interests in the disputed domain name.

Lastly, the Complainant contends that the disputed domain name also points to an "ethical phishing" page, and is used to redirect the Complainant's clients to the Respondent's web site with the intent to obtain personal information from such clients, through the use of a registration form.

The Complainant concludes with reference to the issue of the rights or legitimate interest that, the Respondent has in no way any rights or legitimate interests in the disputed domain name.

With reference to the circumstances evidencing bad faith, the Complainant indicates that, considering the renown of its trademark AMUNDI and the distinctiveness of its trademark and reputation, the Respondent knew or should have known the Complainant at the time of registering the disputed domain name.

Moreover, the Complainant emphasizes that the Respondent must also have been well aware of the Complainant at the moment of registering the disputed domain name, since it deliberately chose to include a typo squatted version of the Complainant's trademark.

The Complainant also asserts that, as the Respondent's web site redirects to an "ethical phishing" page, by registering the disputed domain name, which is confusingly similar to the Complainant's trademark AMUNDI, the Respondent's aim was to attract Internet users to its web site or other online location, for commercial gain, thus creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of its web site, location or product or service on its web site or location.

The Complainant thus concludes that the Respondent registered and is using the disputed domain name in bad faith.

B. RESPONDENT.

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 Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark AMUNDI, as it reproduces the core of the Complainant's trademark, with the mere addition of the Top-Level domain ".com" and a common misspelling of the trademark where a letter "j" substituted the letter "i" of the original trademark. As stated in a number of prior decisions rendered under the UDRP, both these factors are not sufficient to prevent a finding of confusing similarity.

2. The Complainant stated that the Respondent is not affiliated with or authorized by the Complainant in any way. There is no evidence of the fact that the Respondent might have been commonly known by the disputed domain name or by a name corresponding to the disputed domain name.
Moreover, according to the evidence on records, the Respondent has pointed the disputed domain name to login web page displaying the heading "ethical phishing" web site, which in itself does not amount to a bona offering of goods or services or to a legitimate non-commercial or fair use.
Therefore, the Panel finds that the Complainant has made a prima facie case that the Respondent has no rights or legitimate interest in the disputed domain name and that, by not submitting a Response, the Respondent has failed to rebut the Complainant's prima facie case.

3. As to the bad faith at the time of the registration, the Panel finds that, in light of the prior registration and use of the trademark AMUNDI in connection with the Complainant's services and the well-known character of the trademark in the financial sector, the Respondent was very likely aware of the Complainant's trademark at the time of the registration of the disputed domain name.
In view of the current use of the disputed domain name to redirect users to a web site requesting to type a username and password and explicitly defined by the Respondent as an "ethical phishing" web site, the Panel finds that the Respondent intentionally attempted to attract Internet users to its web site for commercial gain, by causing a likelihood of confusion with the Complainant's trademark AMUNDI as to the source, sponsorship, affiliation or endorsement of its web site and the products offered therein, according to paragraph 4(b)(iv) of the Policy.
In light of Internet users' presumption of trustworthiness in domain names consisting in or incorporating registered trademarks, the Panel finds that, when, like in the present case, domain names are identical or confusingly similar to the trademarks of banks or other companies operating in the financial sector, the potential risks posed by phishing are to be considered an additional circumstance evidencing bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **AMUNDJ.COM**: Transferred

PANELLISTS

Name	**Luca Barbero**

DATE OF PANEL DECISION 2020-02-26

Publish the Decision