Decision for dispute CAC-UDRP-103117

Case number	CAC-UDRP-103117
Time of filing	2020-06-16 08:55:16
Domain names	armundipioneer.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	AMUNDI ASSET MANAGEMENT

Complainant representative

Organization	Nameshield (Enora Millocheau)

Respondent

Organization	Wis INC

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings pending or decided and relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of international trademark n° 1398148 AMUNDI PIONEER registered January 11, 2018 for services in class 36 and claiming priority of July 11, 2017.

This trademark registration predates the registration of the disputed domain name which is June 8, 2020.

FACTUAL BACKGROUND

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

1. Complainant is Europe’s largest asset manager by assets under management and ranks in the top 10 globally.

2. It results from the registrar verification that the date of registration of the disputed domain name by the current registrant was June 8, 2020.

3. According to the undisputed evidence provided by the Complainant, the disputed domain name is offered for sale over the SEDO platform for a minimum price of USD 799.

4. The disputed domain name redirects to a parking page with commercial PPC links.

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 Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, paragraph 4(a)(i) of the Policy.

The Complainant’s registered trademark AMUNDI PIONEER is fully included in the disputed domain name. It is the view of this Panel that the mere addition of an additional "R" does not avoid the confusing similarity between the disputed domain name and the Complainant’s trademark. This addition is an evident misspelling.

A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, at section 1.9). This Panel shares this view since the distinctive trademark AMUNDIPIONEER is recognizable within the disputed domain name.

2.
In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

In particular, the Panel notes that there is no evidence in the record showing could lead the Panel to conclude that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy. In addition, it results from the Complainant’s uncontested evidence that the Respondent has no connection or affiliation with the Complainant who has not granted the Respondent any license or consent, express or implied, to use the Complainant’s trademark in domain names or in any other manner. Furthermore, use of the disputed domain name for a parking page with commercial PPC links excludes any non-commercial use in the sense of paragraph 4(c)(iii) of the Policy from the outset. Finally, said use for commercial web content does - in the Panel's view - not represent a bona fide offering (pursuant to paragraph 4(c)(i) of the Policy). This use rather capitalizes on the reputation of the Complainant’s AMUNDI PIONEER mark.

3.
Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith according to paragraph 4(a)(iii) of the Policy. It is indeed satisfied that the Respondent has registered the disputed domain name primarily for the purpose of selling it either to the Complainant or to third persons for valuable consideration in excess of the documented out-of-pocket costs directly related to the disputed domain name.

It results from the Complainant's undisputed and documented allegations the Respondent is offering the disputed domain name for sale for an amount of USD 799. This Panel finds that such requested price is clearly in excess of any out-of-pocket costs directly related to the disputed domain name (see CAC case no.103015 - Novartis AG v. BRANDIT GmbH).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **ARMUNDIPIONEER.COM**: Transferred

PANELLISTS

Name	**Dr. Tobias Malte Müller**

DATE OF PANEL DECISION 2020-07-22

Publish the Decision