Decision for dispute CAC-UDRP-103480

Case number	CAC-UDRP-103480
Time of filing	2020-12-29 09:20:44
Domain names	amundi-assets.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	AMUNDI ASSET MANAGEMENT

Complainant representative

Organization	Nameshield (Laurent Becker)

Respondent

Name	YONG WOON CHIN

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of international trademark no. 1024160 AMUNDI® registered on 24 September 2009 ("Complainant's Trademark").

The disputed domain name <amundi-assets.com> was registered on 13 December 2020.

FACTUAL BACKGROUND

As the Respondent did not file any response to the complaint, the Panel took into account the following facts asserted by the Complainant (and supported by the documentary evidence submitted by the Complainant) and unchallenged by the Respondent:

(a) The Complainant is Europe's number one asset manager by assets under management and has offices in 37 countries in Europe, Asia-Pacific, the Middle-East and the Americas. With €1,425 billion in assets under management and over 100 million retail, institutional and corporate clients, the Complainant ranks in the top 10 globally.

(b) The Complainant owns the Complainant's Trademark.

(c) The Complainant also owns the domain name <amundi.com>, registered on 26 August 2004, used for its official website. The Complainant also owns several domain names comprising the distinctive wording AMUNDI® and terms related to its activities, such as <amundi-assetmanagement.com>, <amundi-capitalinvestment.com> or <amundi-funds.com>.

(d) The disputed domain name <amundi-assets.com> was registered on 13 December 2020 and is now suspended, however as of 22 December 2020 there was a website under the subdomain <web.amundi-assets.com> using name of the Complainant and Complainant's Trademark.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

THE COMPLAINANT:

In addition to the above factual assertions, the Complainant also contends the following:

(i) The disputed domain name is confusingly similar Complainant’s Trademark. It contains Complainant’s Trademark followed by a generic term “assets”. Adding such non-distinctive term does not diminish confusing similarity of disputed domain name to Complainant's Trademark.

(ii) The Respondent is not affiliated with the Complainant nor authorized by it in any way to use Complainant’s Trademark. The Complainant does not carry out any activity for, nor has any business with the Respondent. Neither license nor authorization has been granted to the Respondent to make any use of the Complainant’s Trademark or apply for registration of the disputed domain name by the Complainant. Moreover, the website operated under the subdomain <web.amundi-assets.com> displays Complainant’s Trademark and name. The Complainant contends that the Respondent attempted to pass itself off as Complainant in order to create a likelihood of confusion with the Complainant. Therefore, the Respondent has no legitimate interest in the disputed domain name.

(iii) Given the distinctiveness of the Complainant's Trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant's Trademark. The Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant with the intent to deceive consumers. This amounts to bad faith in registration and use of the disputed domain name.

For the above reasons, the Complainant seeks transfer the disputed domain name to the Complainant.

THE RESPONDENT:

The Respondent did not provide any response to the complaint.

RIGHTS

The Panel concluded that the disputed domain name is confusingly similar to Complainant’s Trademarks within the meaning of paragraph 4(a)(i) of the Policy.

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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.

For details, please see "Principal Reasons for the Decision".

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

Paragraph 4(a) of the Policy requires that the Complainant proves each of the following three elements to obtain an order that the disputed domain name should be transferred or revoked:

(i) the disputed 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 disputed domain name; and

(iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied in these proceedings.

RIGHTS

The disputed domain name is confusingly similar to Complainant’s Trademark. It contains the Complainant's Trademark "AMUNDI" and then a non-distinctive term "assets" is added which is not sufficient to distinguish disputed domain name from Complainant's Trademark.

For sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the ".com") must be disregarded under the identity / confusing similarity test as it is a necessary technical requirement of registration.

Therefore, the Panel concludes that the Complainant satisfied the requirement under paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTEREST

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, a respondent carries the burden of demonstrating rights or legitimate interests in a domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy (for example, WIPO case no. D2003-0455, Croatia Airlines d.d. v. Modern Empire Internet Ltd.).

As asserted by the Complainant (and unchallenged by the Respondent), the Respondent is not commonly known by the disputed domain name. Neither is the Respondent in any way related to the Complainant. The Respondent failed to provide any information and evidence that it has relevant rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a) (ii) of the Policy).

Therefore, the Panel concludes that the Respondent did not establish any right or legitimate interest to the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Panel finds that the Respondent operated a website under the subdomain of the disputed domain name which refers to Complainant's Trademarks and which requests internet users to register for some kind of event allegedly organized by the Complainant. Therefore, the Respondent attempts to pass off as the Complainant or at least create a false notion of association with the Complainant in order to deceive consumers who are misled into believing that the website is supported by or connected to the Complainant.

The Panel believes that such activities using the disputed domain name confusingly similar to Complainant's Trademark are clear evidence of bad faith of the Respondent as it has been held by number of previous UDRP decisions, as the Complainant correctly pointed out. For example See Bittrex, Inc. v. Wuxi Yilian LLC, FA 1760517 (Forum Dec. 27, 2017) ("finding bad faith per Policy 4(b)(iv) where "Respondent registered and uses the <lbittrex.com> domain name in bad faith by directing Internet users to a website that mimics Complainant's own website in order to confuse users into believing that Respondent is Complainant, or is otherwise affiliated or associated with Complainant.").

As a result, the Panel found that the disputed domain name has been registered and used by the Respondent in bad faith (within the meaning of paragraph 4(a)(iii) 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-ASSETS.COM**: Transferred

PANELLISTS

Name	**Michal Matějka**

DATE OF PANEL DECISION 2021-02-02

Publish the Decision