

Decision for dispute CAC-UDRP-104962

Case number CAC-UDRP-104962

Time of filing 2022-11-04 09:46:20

Domain names myamundi.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization AMUNDI ASSET MANAGEMENT

Complainant representative

Organization NAMESHIELD S.A.S.

Respondent

Name IG Limited IG Limited

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 owns International trademark registration number 1024160 for AMUNDI, which was registered on 24 September 2009 in class 36.

FACTUAL BACKGROUND

The Complainant is a leading asset manager with offices in Europe, Asia-Pacific, the Middle East and the Americas. It has over 100 million clients.

The Complainant owns the International trademark number 1024160 for AMUNDI, which predates the registration of the disputed domain name. It also owns several domain names that incorporate the trademark AMUNDI, such as <amundi.com>, registered since 26 August 2004 and used for its official website.

The Respondent registered the disputed domain name on 13 June 2022 using a privacy protection service. It resolves to a page displaying the message "Access denied".

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

- i. 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).
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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 the Complainant to prove each of the following three elements:

- (i) the disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and used in bad faith.

A. IDENTICAL OR CONFUSINGLY SIMILAR

The Complainant contends that the disputed domain name is confusingly similar to its trademark, AMUNDI.

The addition of the top-level suffix, “.com” is a standard registration requirement and can be disregarded when assessing whether the disputed domain name is confusingly similar to the Complainant’s trademark.

The Complainant’s trademark, AMUNDI, is clearly visible in the disputed domain name. Adding the prefix “my” to it does not avoid a finding of confusing similarity (see WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasily Terkin).

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, AMUNDI and that the requirements of paragraph 4(a)(i) of the Policy have been met.

B. NO RIGHTS OR LEGITIMATE INTEREST IN THE DISPUTED DOMAIN NAME

The Complainant asserts that the Respondent has no rights or legitimate interest in the disputed domain name and says that:

- i. the Respondent is not commonly known as the disputed domain name;
- ii. the Respondent is not related in any way to the Complainant’s business, nor has any business with Complainant, nor authorised in any way to use the trademark AMUNDI; and

- iii. the Respondent has not made any use of the disputed domain name since its registration, which demonstrates a lack of legitimate interest in the disputed domain name.

The Panel finds that the Complainant has made out a prima facie case that the Respondent lacks rights or legitimate interest in the disputed domain name. The burden of proof now shifts to the Respondent to show that it has relevant rights.

The Respondent has not filed a Response nor disputed any of the Complainant's assertions. The Respondent is not commonly known by the disputed domain name, nor authorised to use the Complainant's trademark. The disputed domain name resolves to an error page and there is no evidence of any legitimate use or any bona fide offering of goods or services by the Respondent.

Taking the above factors into consideration the Panel finds that the Respondent has no rights or legitimate interest in the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been met.

C. REGISTERED AND BEING USED IN BAD FAITH

The Complainant asserts that the disputed domain name has been registered and is being used in bad faith and says that:

- i. that the disputed domain name is confusingly similar to its trademark, AMUNDI, and the addition of the term "my" to it cannot be coincidental as "myamundi" is the name used by the Complainant's for its official social media account;
- ii. given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark; and
- iii. the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use.

The Complainant's owns the trademark, AMUNDI which pre-dates the registration of the disputed domain name. The Panel agrees that the registration of the disputed domain name that incorporates the Complainant's trademark and mirrors the name of the Complainant's social media account "myamundi" cannot be coincidental. There appears no reason for the Respondent to register <myamundi.com> other than to create a likelihood of confusion with the Complainant and its trademark.

As numerous UDRP panels have found, the passive holding or non-use a domain name by the Respondent can in certain circumstances amount to the Respondent acting in bad faith, see D2000-0003, Telstra Corporation Limited v. Nuclear Marshmallows.

In the present case:

- i. the Complainant's trademark is well-known and predates the registration of the disputed domain name;
- ii. the Respondent has not filed a Response and has not asserted any reason for incorporating the Complainant's well-known trademark in the disputed domain name;
- iii. the Respondent has used a privacy service to conceal its identity and has mirrored the name of the Complainant's social media account in the disputed domain name;
- iv. there is no evidence of any actual or contemplated good faith use by the Respondent of the disputed domain name; and
- v. it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by the Respondent that would not be illegitimate or an infringement of the Complainant's rights under trademark law.

Taking these factors into consideration, the Panel concludes that the disputed domain name was both registered and is being used in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **myamundi.com**: Transferred

PANELLISTS

Name	Veronica Bailey
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DATE OF PANEL DECISION **2022-12-07**
