

Decision for dispute CAC-UDRP-105855

Case number	CAC-UDRP-105855
Time of filing	2023-10-09 09:35:16
Domain names	amundim.online, amundim.tech

Case administrator

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

Organization	AMUNDI ASSET MANAGEMENT
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	Egor Avramenko
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OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and relate to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant relies on the following trademark, for which it has adduced proof of ownership: international trademark No. 1024160 for the word mark AMUNDI, registered on 24 September 2009 in Nice Classification class 36, which relates to financial services.

The Complainant has further adduced evidence that it is the registrant of the domain name <amundi.com> and has been since 26 August 2004.

The Respondent registered the two disputed domain names <amundim.online> and <amundim.tech> on 28 September 2023, according to the CAC Case Administrator's Registrar Verification record.

FACTUAL BACKGROUND

The Complainant, Amundi Asset Management, is a French public company founded by two prominent French banks in 2010 that has

grown to be the leading European asset manager, with approaching €2 trillion under management, offices in the Europe, Asia-Pacific, Middle East and Americas regions, and over 100 million customers. The Complainant serves institutional to retail customers and is ranked among the top ten asset managers globally.

The Complainant has adduced screenshot evidence to show that the domain name <amundim.online> resolves to a website offering financial securities trading solutions, while it asserts that the domain name <amundim.tech> is inactive in the sense that the corresponding screenshot shows that there is no accessible web page for it.

The Panel records that the <amundim.online> website claims, among other things, that "AmundimClub" is a "Broker-Dealer registered with the United States Securities and Exchange Commission (SEC)". It further states that its solutions provide "direct trading of securities to professional traders worldwide", whereas the dominant image on the page is of a couple in their later years seated together in a domestic setting before a laptop computer.

The Complainant further provided evidence that, among the Complainant's offerings, it provides a financial securities third-party intermediation service for execution of transactions. The Panel records that the description of this service is accompanied by detailed explanations and source material requiring at least some prior acquaintance with the mechanics of financial securities trading to be easily comprehensible. No such explanation or material is provided on the Respondent's <amundim.online> page.

Under its general powers, a routine check made by the Panel of the Respondent's contact details in this uncontested case revealed that the telephone number given for both voice and fax is a UK mobile one (an unusual combination with a mobile number) while the postal address exists but corresponds to a car park and two fast-food shops.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends, for purposes of the first part of the UDRP test, that the disputed domain names are confusingly similar to its AMUNDI trademark – both of them contain AMUNDI in its entirety – while addition of the letter "m" is not sufficient to remove such confusingly similarity but instead makes this a clear case of typosquatting. For their part, the respective TLD extensions are a standard registration requirement, to be disregarded in line with prior ADR practice.

The Complainant asserts, for the second part of the UDRP test, that the Respondent is not known as either of the disputed domain names, has no rights or legitimate interests in respect of the disputed domain names, is not related in any way to the Complainant's business, and has no authorization to use the Complainant's AMUNDI trademark in any way. Indeed, typosquatting by using that trademark in the disputed domain name <amundim.online> in competition with the Complainant's business in itself demonstrates the Respondent's lack of any right or legitimate interest. Whereas the disputed domain name <amundim.tech> is inactive, the Complainant contends that the Respondent has not made any use of this name, has no demonstrable plan to do so and thus shows lack of legitimate interest. This disputed domain name's purpose is equally to create a likelihood of confusion with the Complainant and its trademark.

For the third part of the UDRP test, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent registered the disputed domain names with full knowledge of the Complainant's trademark. The Complainant reiterates that the misspelling of the trademark AMUNDI in both disputed domain names was intentionally designed to make them misleadingly similar to the Complainant's trademark. In the case of the <amundim.online> disputed domain name, this artifice was meant to divert internet users searching for the Complainant's website to the Respondent's competing one. This constitutes active bad faith use. As to the currently inactive disputed domain name <amundim.tech>, the Complainant contends that the Respondent has not demonstrated any activity in respect of the disputed domain name and it is not possible to conceive of any plausible actual or contemplated active use of the 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.

The Complainant concludes therefore that it has met the UDRP cumulative test in all regards in respect of both disputed domain names.

RESPONDENT:

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names are identical or confusingly similar to a trademark 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 names (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain names were registered and are 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 the UDRP were met and that there is no other reason why it would be inappropriate to provide a decision.

The Panel notes that its résumé of the Parties' contentions includes for the Complainant only its arguments pertinent to reaching a decision in this proceeding; it omits in particular references to past ADR Panels' Decisions. The Panel equally finds it unnecessary to consider a contention based on Decisions of some previous Panels regarding prima facie proof since this contention does not affect evaluation of the evidence that the Panel has before it in this proceeding.

PRINCIPAL REASONS FOR THE DECISION

The Panel finds that the Complainant has adequately demonstrated its own rights in both of the disputed domain names and the confusing similarity of these names to its protected brand. It has further sufficiently demonstrated that the Respondent lacks any right or legitimate interest in the disputed domain names, in particular through its arguments claiming that the formulation of the disputed domain names' stems constitutes typosquatting.

As to bad faith registration and use, the Panel accepts, firstly, the contention that the Respondent's design of both of the disputed domain names at the point of registration was to make them misleadingly similar to the Complainant's brand, with the aim of illegitimately benefitting from the Complainant's business profile and reputation.

Secondly, the Panel finds bad faith in respect of the Respondent's use of both disputed domain names.

In the case of <amundim.online>, such use is amply supported by the screenshot evidence of the Respondent's website to which that disputed domain name resolves. The Panel here notes that its own inquiries under its general powers reveal not the Respondent's registration with the US Securities and Exchange Commission, but the Complainant's instead, meaning that the Respondent is masquerading as the Complainant. The Panel's inquiries furthermore show that the Respondent's contact details given at registration are suspicious, to say the least (see Factual Background), while the Panel draws attention to the fact that the Complainant's website speaks of a third-party intermediary service that an unsuspecting customer might possibly mistake "AmundimClub" to be. One has therefore elements suggestive of a scam to exploit the Complainant's potential customers in an era in which notably online retail trading in financial securities has become popular. And, from the choice of dominant image presented on the Respondent's website, it is clearly the – more susceptible – retail customer who is that website's target (see Factual Background).

The Respondent's <amundim.online> website thus supplies damning evidence of the Respondent's bad faith use of this disputed domain name.

As to <amundim.tech>, the Panel is less confident than perhaps the Complainant that this disputed domain name is "inactive", if one understands use in a broader sense than being associated with an accessible website. Given the clear evidence of a scam just mentioned, as well as experience in similar cases before ADR Panels, it cannot be excluded that <amundim.tech> is used in a supporting and equally illegitimate role to that of <amundim.online>. Indeed, since both the disputed domain names were (as already established) illegitimately registered by the Respondent on the same day with exactly the same stem in their names, it is reasonable to regard both as part of a common abusive enterprise that is now in operation, even if concrete details of actual use of <amundim.tech> have not to date come to light.

The Panel therefore FINDS that all elements of the UDRP's cumulative three-part test have been satisfied in this proceeding and ORDERS transfer of the disputed domain names to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

1. **amundim.online**: Transferred
2. **amundim.tech**: Transferred

PANELLISTS

Name	Kevin Madders
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DATE OF PANEL DECISION **2023-11-17**

Publish the Decision
