Decision for dispute CAC-UDRP-106033

Case number	CAC-UDRP-106033
Time of filing	2023-12-04 10:15:26
Domain names	amundipro.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	AMUNDI ASSET MANAGEMENT

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Tee Yu

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

International Trademark Registration No. 1024160 for AMUNDI registered on September 24, 2009.

FACTUAL BACKGROUND

The Complainant is Europe's number one asset manager by assets under management and has offices in Europe, Asia-Pacific, the Middle-East and the Americas. With over 100 million retail, institutional and corporate clients, the Complainant ranks in the top 10 globally. It operates its business under the name AMUNDI and is the owner of international trademark Registration No. 1024160 for this name dating to September 24, 2009. The Complainant also owns the domain name <amundi.com> that reflect its trademark and which was registered and has been in use by the Complainant since 2004.

The disputed domain name was registered on November 27, 2023 and resolves to a blank page with a message "Unable to connect".

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it. Summary of Complainant´s contentions is included in the Principal reasons for the decision part of this decision.

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

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the disputed domain name, the Complainant must demonstrate each of the following:

(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.

Further, as UDRP proceedings are administrative in nature, the standard of proof is the balance of probabilities (i.e., more likely than not). Simyo GmbH v. Domain Privacy Service FBO Registrant / Ramazan Kayan, D2014-2227 (WIPO February 27, 2015); LoanDepot.com v. Liu Yuan, FA 1762239 (FORUM January 15, 2018).

Finally, In view of Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at paragraph 4.3; see also GROUPE CANAL + v. Danny Sullivan, 102809 (CAC January 21, 2020) (“the Panel, based on the poorly supported and conclusory allegations of the Complainant, retains that the Complainant has not prevailed on all three elements of the paragraph 4(a) of the Policy and, therefore, rejects the Complaint.”)

1. Confusing Similarity

The Complainant has established its rights to the AMUNDI trademark through its submission into evidence of an international trademark registration that covers many countries, as well as through submission of a screenshot of its own www.amundi.com website showing actual use of the trademark. The disputed domain name combines the Complainant’s trademark with the word "pro“ and the „.com“ gTLD. These additions are very minor and do not dispel the confusing similarity between the disputed domain name and the Complainant’s trademark. Avast Software s.r.o. v. Milen Radumilo, 102384 (CAC April 19, 2019) (“it is well accepted that where the relevant trademark is recognizable within the disputed domain name, the addition of descriptive terms would not

prevent a finding of confusing similarity.").

Also, the extension ".com" typically adds no meaning or distinctiveness to a disputed domain name and may most often be disregarded in the Paragraph 4(a)(i) analysis. Novartis AG v. Wei Zhang, 103365 (CAC December 9, 2020) ("it is generally accepted that the addition of the top-level suffix in the domain name (e.g., '.com') is to be disregarded under the confusing similarity test").

Accordingly, the Panel finds that the Complainant has rights to its claimed trademark and that the addition of a descriptive word thereto in the disputed domain name is insufficient to avoid a finding that it is confusingly similar to the Complainant's trademarks. Thus, the Complainant has satisfied Paragraph 4(a)(i) of the Policy.

2. Rights or Legitimate Interests:

Paragraph 4(c) of the Policy sets out certain circumstances which, if proven by the evidence presented, may demonstrate a respondent's rights or legitimate interests in respect of a disputed domain name.

The Panel concludes, on the basis of the Complainant's undisputed contentions, that the Respondent has not made use of the disputed domain name in connection with a bona fide offering of goods or services as noted in paragraph 4(c)(i) of the Policy. The Respondent has not been authorized to use the Complainant's AMUNDI trademark, either as domain name or in any other way. Rather, the Respondent is using the disputed domain name to resolve to a blank page that contains only the message „Unable to connect". Therefore, this Panel concludes that the disputed domain name fully incorporates the Complainant's distinctive trademark and that the Respondent is seeking to divert Internet users who are trying to reach the Complainant but, due to the confusing similarity of the disputed domain name with the Complainant's trademark, end up at the Respondent's website instead. Past decisions under the Policy have held that such use of the disputed domain name is not a bona fide offering of goods or services. See, e.g., DIGITAL CLASSIFIEDS FRANCE v. Cralos Ramirez Fuentes, UDRP-105639 (CAC August 17, 2023) (no bona fide use found where "the Complainant has demonstrated that the disputed domain name did not in the past, and still does not, connect to any relevant content on the Internet, but is passively held by the Respondent instead.").

Further, as the verified Whois record for the disputed domain name, provided by the concerned Registrar, identifies the Registrant only as Tee Yu and the Respondent has submitted no Response nor made any other submission in this case, there is no evidence before this Panel to suggest that the Respondent is commonly known by the disputed domain name or that it has any trademark rights associated with the name "Amundi" under paragraph 4(c)(ii) of the Policy.

Finally, it cannot be said that the Respondent has made a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain as noted in paragraph 4(c)(iii) of the Policy. There is no evidence of record to show, and this Panel is not aware of any information to indicate that the word "amundi" has any generic or descriptive meaning. Nor does it appear that the disputed domain name and its resulting blank website are referring to the Complainant's trademark in any nominative or other classic fair use manner such as for the purpose of commentary, news reporting, grievance, education, or the like.

Therefore, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) and of the Policy and demonstrated that the Respondent has no rights or legitimate interests in the disputed domain name.

3. Bad Faith Registration and Use:

In order to prevail in a dispute, paragraph 4(a)(iii) of the Policy requires that a Complainant prove that the domain name has both been registered and is being used in bad faith.

The Complainant states that it is "Europe's number one asset manager by assets under management" and that it has "over 100 million retail, institutional and corporate clients". In support, the Complainant provides screenshots from the page of its own website that discusses the company's background and key figures such as the amount of assets under management (EUR 1,961 bn), the number of company clients (more than 100 million), and the number of company employees (5,400). It also submits screenshots of a Google search for the word „amundi" wherein all of the results refer to the Complainant. This evidence, combined with the disputed domain name's use of the unique AMUNDI trademark, leads this Panel to the conclusion that the Respondent very likely registered the disputed domain name with knowledge of the Complainant's trademark. It has been held in prior decisions that such activity supports a finding of bad faith domain name registration. 7-Eleven, Inc. v. charles rasputin, FA 1829082 (FORUM March 9, 2019) (in relation to the domain name 7elevendelivered.com and others, "Respondent had actual knowledge of Complainant's rights in the 7 ELEVEN mark at the time of registering the infringing domain names. Actual knowledge of a complainant's rights in a mark prior to registering a confusingly similar domain name can evince bad faith under Policy 4(a)(iii).").

As for use, the Complainant has submitted evidence that the disputed domain name resolves to a blank page. Such lack of activity has routinely been held to demonstrate bad faith use of a domain name that is confusingly similar to a complainant's trademark. BOURSORAMA v. Sahad Mohammed Riviera (Sahari Muti Inc), UDRP-105427 (CAC June 15, 2023) ("a passive holding of a disputed domain name may, in appropriate circumstances, be consistent with the finding of bad faith, in particular in circumstances in which, for example, (1) the Complainant's trademark is reputed and (2) there is no conceivable use that could be made of the disputed domain name and would not amount to an infringement of the complainant's trademark's rights.") The Panel in this case finds that, in accordance with paragraph 4(b)(iv) of the Policy, the disputed domain name has been used in bad faith as it creates a likelihood of confusion with the AMUNDI trademark and resolves to a blank website.

Finally, the Complainant has submitted a screenshot of its authentication login portal, which is used by financial professionals, at https://www.amundi-ee.com/pro/#login. It is asserted that use of the term „pro" in the disputed domain name worsens the risk of confusion as it may refer to the Complainant's above-mentioned address. The Panel accepts this argument as further support for its finding of bad faith registration and use through a likelihood of confusion.

In light of the above, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) and that the disputed domain name has been registered and used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **amundipro.com**: Transferred

PANELLISTS

Name	**Steven Levy**

DATE OF PANEL DECISION 2024-01-05

Publish the Decision