Decision for dispute CAC-UDRP-106143

Case number	CAC-UDRP-106143
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Domain names	amundlglobal.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	AMUNDI ASSET MANAGEMENT

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Peter Oblekwe

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 is the owner of the international trademark n°1024160 for AMUNDI registered since September 24th, 2009.

The Complainant is also the owner of the domain name <**amundi.com**>, registered and used since August 26th, 2004.

FACTUAL BACKGROUND

AMUNDI ASSET MANAGEMENT is one of the major companies in the field of assets managment and has offices in Europe, Asia-Pacific, the Middle-East and the Americas. According to the Complainant's submissions AMUNDI has over 100 million retail, institutional and corporate clients and currently ranks in the top 10 globally.

The disputed domain name was registered on January 4th, 2024 and is inactive.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant claims that the disputed domain name (i.e. <amundlglobal.com>) is confusingly similar to the AMUNDI trademark. The Complainant supports that AMUNDL is an obvious misspelling of the trademark AMUNDI and that the addition of the generic word "global" is not sufficient to exclude confusing similarity for the purpose of the First element of the Policy.

The Complainant contends that TLD are disregarded when assessing confusing similarity as they are considered as standard registration requirements.

The Complainant claims that the Respondent has no rights nor legitimate interest in registering the disputed domain name. According to the Complainant assertions, there is no evidence that the Respondent is known as the disputed domain name or is, in some way, authorized to use the AMUNDI trademark.

Finally, the disputed domain name is not used and consequently it could not be considered as a "bona fide offering of goods or services" or a "legitimate noncommercial or fair use" for the purposes of the Policy.

As regards registration and use in bad faith, the Complainant claims that since the AMUNDI trademark is widely known, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's rights.

RESPONDENT:

The Respondent did not file any response in this proceeding.

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 disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

The Complainant has successfully proved to be the owner of the trademark AMUNDI and of the domain name <amundi.com>.

The Panel finds that the trademark “AMUNDI” is fully recognizable in the disputed domain name since the substitution of the letter "i" with the letter "l" in the element AMUNDL has no significant impact in the confusing similarity assessment. Moreover the addition of the generic word "global" increases the likelihood of confusion with the prior trademark AMUNDI since it could be easily associated with the Complainant's business conducted under the trademark AMUNDI.

According to a consolidated case law in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in it, the confusing similarity threshold is met.

Furthermore, the addition of domain name extension is generally disregarded in view of its technical function.

As a consequence, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, for the purposes of the First Element of the Policy.

2. The Respondent lacks rights or legitimate interests in the disputed domain name.

Pursuant to paragraph 4(a)(ii) of the Policy, a complainant is required to make out a prima facie case that a respondent lacks rights or legitimate interests in the disputed domain name. Once such a prima facie case is made, the respondent carries the burden of demonstrating its rights or legitimate interests in the disputed domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In this case, the Panel finds that the Complainant's submitted evidence and allegations are sufficient to establish a prima facie case of Respondent's lack of rights and legitimate interests in the disputed domain name.

According to the information provided by the Complainant and not contested by the Respondent, Mr. Peter Oblekwe is not commonly known by the disputed domain name nor he is authorized to use the Complainant's trademark "AMUNDI" or the similar "AMUNDLGLOBAL".

Finally, the disputed domain name points to an inactive page. The Panel agrees that such use does not amount to a "bona fide offering of goods and services" nor to a "legitimate non commercial use" for the purposes of the Policy as confirmed by previous panels. As a matter of fact AMUNDI is an invented word and this makes it very improbable that the disputed domain name could be used in a way that would not interfere with the Complainant's prior rights.

For these reasons, the Panel takes the view that the Respondent lacks rights or legitimate interests in the disputed domain name for the purposes of the Policy.

3. The disputed domain name was registered and is used in bad faith.

The Panel finds the following circumstances as material in order to establish the Respondent's bad faith in the registration of the disputed domain name:

(i) the disputed domain name was registered well after the Complainant acquired rights on the trademark AMUNDI;

(ii) the Complainant's trademark is widely known as confirmed by previous Panels (Please see CAC case n° 101803, AMUNDI v. John Crawford ("The trademark of Complainant has been existing for a long time and is well-known. Respondent knew or should have known that the disputed domain name included Complainant's trademark."). The reputation of the trademark AMUNDI makes it very improbable that the Respondent was not aware of the Complainant's exclusive rights on AMUNDI at the time of the registration of the disputed domain name;

(iii) the disputed domain name is a clear and obvious misspelling of the Complainant's trademark (i.e. typo squatting). Previous panels found that typosquatting discloses an intention on the part of the respondent to confuse users seeking or expecting to find a website related to the Complainant.

Currently, the disputed domain name is not used. Previous panels have confirmed that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Generally panels consider as material in order to determine bad faith the following factors:

(i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.

(the "Telstra case test")

On the basis of the above mentioned factors the Panel concludes that the disputed domain name is used in bad faith since:

i. AMUNDI is a fanciful word and consequently the degree of distinctiveness of AMUNDI shall be considered high;

ii. the Respondent did not provide any response nor evidence in support of the contemplated good faith;

iii. AMUNDI is a well known trademark and consequently the Panel does not find any possible use in good faith to which the domain name may be put.

All above considered the Panel finds the evidence submitted as sufficient to prove use and registration in bad faith of the disputed domain name for the purposes of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **amundlglobal.com**: Transferred

PANELLISTS

Name	Andrea Mascetti

DATE OF PANEL DECISION 2024-02-12

Publish the Decision