Decision for dispute CAC-UDRP-106239

Case number	CAC-UDRP-106239
Time of filing	2024-02-08 09:23:04
Domain names	amndm.com

Case administrator

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

Complainant

Organization	AMUNDI ASSET MANAGEMENT

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Name	Egor Avramenko

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 the International trademark registration number 1024160 for AMUNDI, registered on 24 September 2009.

FACTUAL BACKGROUND

The Complainant is French asset management company with offices in Europe, Asia-Pacific, the Middle East and the Americas. Globally, it ranks in the top 10 asset management companies. The Complainant owns the trademark AMUNDI. It also owns the domain name <amundi.com>, registered on 26 August 2004.

The Respondent registered the disputed domain name on 17 October 2023, using a privacy service. The disputed domain name redirects to a website offering services that compete with those of the Complainant.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar its trademark AMUNDI. It asserts that the misspelling of the trademark is not sufficient to escape the finding that the disputed domain name is confusingly similar to the AMUNDI trademark.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and states that:

i. the Respondent is not known as the disputed domain name;
ii. the Respondent is not related to the Complainant, has no business with the Complainant and is not authorised to use the trademark AMUNDI;
iii. the disputed domain name points to a website under the name “AMUNDIM”, dedicated to trading and financial services in competition with the Complainant; and
iv. the Respondent does not use the disputed domain name for any bona fide offering of goods or services, nor for any legitimate non-commercial or fair use.

The Complainant asserts that the disputed domain name was registered and is being used in bad faith and states that:

i. the disputed domain name is confusingly similar to its well-known trademark AMUNDI;
ii. the misspelling of AMUNDI was intentionally designed to be confusingly similar with the Complainant’s trademark;
iii. 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;
iv. the disputed domain name points to a website that gives the name “Amundim LTD”, purporting to be the Complainant’s competitor; and
v. the Respondent registered and used the disputed domain name to attract Internet users, and possibly to offer fraudulent services while impersonating Complainant, or to disrupt Complainant’s business by offering services in direct competition with Complainant.

RESPONDENT:

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

i. 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 is identical or confusingly similar to a trademark 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.

IDENTICAL OR CONFUSINGLY SIMILAR

Ignoring the top-level suffix ".com", the disputed domain name differs from the Complainant's trademark AMUNDI by omitting the letter "u", and substituting the letter "i" with the letter "m".

Usually, the website's content is disregarded when assessing whether a disputed domain name is confusingly similar to the Complainant's trademark. It the current case, the website to which the disputed domain name resolves refers to "Amundim", a name that incorporates the Complainant's trademark entirely, and adds to it the letter "m". The website offers trading solutions in competition with the services offered by the Complainant. Both the disputed domain name and the website to which it resolves appears intentionally designed by the Respondent to confuse Internet users who are seeking to find the Complainant.

Taking these factors into consideration, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's trademark and that the requirements of Paragraph 4(a)(i) of the Policy have been met.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has provided evidence to show its rights in the mark, AMUNDI, and has provided evidence to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The burden of proof now shifts to the Respondent to show that he has relevant rights.

The Respondent has not filed a Response, nor challenged any of the Complainant's assertions. The Respondent is not commonly known as the disputed domain name and is not authorised to use the Complainant's trademark. The disputed domain name resolves to a website that uses the names Amundim LTD and AmundimClub, both of which incorporate the Complainant's trademark and suggest a connection with the Complainant. The Respondent is not authorised to use the Complainant's trademark and is not authorised to carry out any business for the Complainant. There is no evidence of any right or legitimate interests held by the Respondent.

Considering these factors, the Panel concludes that the Respondent has no rights or legitimate interest in the disputed domain name and that the Complainant has met the requirements of paragraph 4(a)(ii) of the Policy.

REGISTERED AND BEING USED IN BAD FAITH

The Complainant's trademark AMUNDI is well-known and predates the registration of the disputed domain name. The Respondent has used a privacy service. The misspelling of the Complainant's trademark and linking it to a website offering services that compete with those of the Complainant, appears intentionally designed to confuse internet users who are seeking the Complainant. It is inconceivable that the Respondent did not know of the Complainant and its rights when he registered the disputed domain name. Using it in connection with a website that competes with the services offered by the Complainant affirms the Respondent's bad faith.

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. **amndm.com**: Transferred

PANELLISTS

Name	**Veronica Bailey**

DATE OF PANEL DECISION 2024-03-13

Publish the Decision