Decision for dispute CAC-UDRP-106360

Case number	CAC-UDRP-106360
Time of filing	2024-03-19 07:53:28
Domain names	amoundi.com

Case administrator

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

Complainant

Organization	AMUNDI ASSET MANAGEMENT

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Fundacion Comercio Electronico

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 submitted evidence that it is the registered owner of the international trademark No. 1024160, registered since 24 September 2009 for the word mark “AMUNDI” in class 36, designated for numerous countries.

FACTUAL BACKGROUND

The Complainant is Europe's number one asset manager by assets under management. It 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.

The Complainant also owns domain names, including the trademark “AMUNDI”, such as the domain name <amundi.com>, registered and used since 26 August 2004.

The disputed domain name was registered on 1 March 2024 and resolves to a registrar parking page with commercial links on the website <http://iyfbodn.com>. Besides, MX servers are configured.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain name and that the language of the registration agreement is English.

The Respondent has not filed a Response.

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.

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

This is a proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and the CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, a complainant must prove each of the following: (A) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; (B) the respondent has no rights or legitimate interests in respect of the domain name; (C) the domain name has been registered and is being used in bad faith.

1. **Identical or confusingly similar domain name**

The Complainant demonstrated that it owns the asserted trademark registration for the word “AMUNDI”, which was registered long before the Respondent registered the disputed domain name. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights for the purposes of standing to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights.

It is also well established that the generic top-level suffix may be disregarded when considering whether a disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights as a necessary technical requirement of a domain name.

The disputed domain name contains the Complainant's trademark “AMUNDI” with an additional letter “O” between letters “M” and “U” so that the relevant part of the disputed domain name reads “AMOUNDI”. The Complainant suggests this is a case of obvious misspelling and typosquatting. Indeed, the Panel notes that such slight variation cannot escape the finding of confusing similarity, especially where the beginning and ending parts of the disputed domain name are identical to the beginning and ending parts of the

asserted trademark and where the visual and phonetic similarity between the signs is very high. In view of the Panel, adding one extra letter in this case is insufficient to avoid the likelihood of confusion.

The Panel, therefore, finds that the disputed domain name is confusingly similar to the trademark to which the Complainant has rights.

2. **Lack of rights or legitimate interests**

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not in any way connected with the Complainant, nor is it authorized to use the Complainant's trademark for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain name pursuant to Paragraph 4(c)(ii) of the Policy.

Furthermore, the evidence submitted by the Complainant demonstrated that the disputed domain name had not been used for a bona fide offering of goods or services or legitimate non-commercial or fair use because it resolves to a parking page with commercial links.

The Panel finds that the Respondent has no rights or legitimate interest in the disputed domain name.

3. **Registration and use of the disputed domain name in bad faith**

With respect to the bad faith argument, the Complainant states, in summary: (a) that the disputed domain is confusingly similar to the Complainant's well-known trademark; (b) that the Respondent must have had actual knowledge of the Complainant's rights in its trademarks; (c) that the disputed domain name resolves to a registrar parking page with commercial links, thus attempting to attract Internet users to his website for commercial gain; and (d) that the disputed domain name was set up with MX records which suggests that it may be actively used for e-mail purposes.

The Panel has already found that the disputed domain name is confusingly similar to the Complainant's trademark "AMUNDI". It is well established that the mere registration of a domain name that is confusingly similar to a trademark by an unaffiliated entity can lead to the presumption of bad faith.

Given the facts of this matter and the use of the disputed domain name, as described above, the Panel believes that the Respondent must have been aware of the existence of the Complainant and its trademark and also that the Respondent must have registered and must have been using the disputed domain name in bad faith, most probably for fraudulent purposes. Furthermore, the Complainant submitted evidence that the disputed domain name was set up with MX (mail exchange) records. Configuration of MX records for e-mail purposes is indicative of potential fraudulent use of the disputed domain name, such as spam and phishing, and can lead to the finding of bad faith, as established by previous panels (CAC Case No. 102827 and CAC Case No. 102380).

Consequently, the Panel finds that the disputed domain name has been registered and has been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **amoundi.com**: Transferred

PANELLISTS

Name	**Vojtěch Chloupek**

DATE OF PANEL DECISION 2024-04-15

Publish the Decision