Decision for dispute CAC-UDRP-106350

Case number	CAC-UDRP-106350
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Domain names	nhamundi.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	AMUNDI ASSET MANAGEMENT

Complainant representative

Organization	NAMESHIELD S.A.S.

Respondent

Organization	Domain Privacy

OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings relating to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns the international trademark n°1024160 “AMUNDI” registered since September 24th, 2009.

FACTUAL BACKGROUND

The Complainant, AMUNDI ASSET MANAGEMENT (please see their website at: www.amundi.com) 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.

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

The disputed domain name <nhamundi.com> was registered on March 9th, 2024. It redirects to a registrar parking page with commercial links on the website http://iyfbodn.com. Besides, the domain name is offered for sale for 2,880 USD.

PARTIES CONTENTIONS

COMPLAINANT:

1. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights

The Complainant contends that the disputed domain name is confusingly similar to the trademark AMUNDI. Indeed, the disputed domain name contains the Complainant's trademark AMUNDI in its entirety.

The addition of the letters "NH" is not sufficient to avoid the likelihood of confusion. It does not change the overall impression of the designation as being connected to the Complainant's trademark. Thus, there is a likelihood of confusion between the disputed domain name and the Complainant's trademark.

It is well-established that "a domain name that wholly incorporates a Complainant's registered trademark may be sufficient to establish confusing similarity for purposes of the UDRP".

On the contrary, the addition of these letters reinforces the risk of confusion as it refers to the Complainant's joint venture "NH-AMUNDI ASSET MANAGEMENT", an asset manager operating in Korea with a net income of 26,585 million in 2022.

It is also well established that the TLD ".COM" is viewed as a standard registration requirement and as such is disregarded.

Finally, the Complainant's rights over the term "AMUNDI" have been confirmed by previous Panels.

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

2. The Respondent has no rights or legitimate interests in respect of the domain name

The Complainant asserts that the Respondent is not known as the disputed domain name. Past panels have held that a Respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name. Thus, the Respondent is not known as the disputed domain name.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that he is not related in any way to the Complainant's business. The Complainant contends that the Respondent is not affiliated with him nor authorized by him in any way to use the trademark "AMUNDI". The Complainant does not carry out any activity for, nor has any business with the Respondent.

Furthermore, the disputed domain name redirects to a parking page with commercial links. Past panels have found it is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

Finally, the disputed domain name is offered for sale for 2,880 USD. The Complainant contends this general offer to sell the disputed domain name evidences the Respondent's lack of rights or legitimate interest.

Accordingly, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

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

The Complainant states that the disputed domain name is confusingly similar to its trademark "AMUNDI" and domain names associated. The Complainant contends the trademark "AMUNDI" is well-known.

Besides, the addition of the letters "NH" cannot be coincidental, as it refers to the Complainant's joint venture NH AMUNDI ASSET MANAGEMENT.

Thus, given the distinctiveness of the Complainant's trademark and reputation, it is reasonable to infer that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks.

Furthermore, the disputed domain name redirects to a parking page with commercial links. The Complainant contends the Respondent has attempt to attract Internet users for commercial gain to his own website thanks to the Complainant's trademarks for its own commercial gain, which is an evidence of bad faith.

Finally, the disputed domain name is offered for sale for 2,880 USD. The Complainant contends that the Respondent has registered the disputed domain name only in order to sell it back for out-of-pockets costs, which evinces bad faith registration and use.

On these bases, the Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

RESPONDENT

No administratively compliant Response was filed.

RIGHTS

To the satisfaction of the Panel, the Complainant has shown that the disputed domain name is identical or confusingly similar to the trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

To the satisfaction of the Panel, the Complainant has 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

To the satisfaction of the Panel, the Complainant has 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. Identical or Confusingly Similar

First, the Panel is satisfied that the Complainant has shown it owns rights in the “AMUNDI” trademark, with registration and evidence provided dating the trademark registration to August 26th, 2004.

Turning to analyze if there is a confusing similarity between the disputed domain name and the trademark, the Panel notes, based on the record at hand, that the disputed domain name reproduces the trademark in its totality, namely "AMUNDI", with the addition of the letters "nh" anteceding the trademark. Adding these letters does not dispel a finding of confusing similarity, on the contrary this particular choice of letters heightens the appearance of confusing similarity with the trademark "AMUNDI" because it appears to be alluding to the Complainant’s joint venture NH AMUNDI ASSET MANAGEMENT. However, this will be subject of further analysis below.

Regarding the first element, the verbatim reproduction of the trademark is enough to find confusing similarity between the disputed domain name and the Complainant's trademark.

Consequently, the Panel determines that the Complaint has satisfied the Policy's first element set under paragraph 4(a)(i).

2. Rights or Legitimate Interests

Based on the evidence on record and acknowledging that the Respondent failed to produce any allegations or evidence necessary to demonstrate its rights or legitimate interests in the disputed domain name, the Panel must turn to the uncontested facts.

The uncontested facts indicate that a) the Respondent is not commonly known by the disputed domain name; b) the Respondent is not authorized to carry out any business activity for the Complainant; c) the Respondent has no license or authorization to use the trademarks; d) the Respondent is not related to the Complainant; and e) the Respondent has no authorization to register a domain name utilizing the Complainant's trademark.

Based on the above, the record at hand, and on the balance of probability, and considering that the Respondent has failed to respond to the Complainant's contentions, the Respondent has consequently not rebutted the prima facie case, as described in paragraph 2.1 of WIPO 3.0 Overview.

The above fact pattern on the balance of probabilities, and in conjunction with the use of the letters "nh" in the disputed domain name, indicates, if nothing else, a likely intention of confusing Internet users with a likely implied association with the Complainant. However, this will be subject to further analysis under the element below.

The evidence on record leads the Panel to conclude that the Respondent did not have rights or legitimate interests in the disputed domain name.

Consequently, the Panel determines that the Respondent has no rights or legitimate interests in the disputed domain name.

Subsequently, the Complainant has fulfilled the second requirement set under paragraph 4(a)(ii) of the Policy.

3. Registered and Used in Bad Faith

Per the record and evidence, the Panel finds that the Respondent was likely aware of the Complainant and had the Complainant's trademark in mind when registering the disputed domain name. This is further reinforced by the fact that the “AMUNDI” trademark predates the registration of the disputed domain name as well as the global reputation of the “AMUNDI” mark indicates that the Respondent knew or should have known about the Complainant's rights when registering the disputed domain name.

Additionally, this conclusion is supported by the fact that the Respondent seems to evoke a connection to the Complainant's trademark by including the letters "nh" in the disputed domain name, which appears to be an active effort by the Respondent to appear to have some sort of association to the Complainant and Complainant’s joint venture NH AMUNDI ASSET MANAGEMENT. Without further explanation from the Respondent, this appears to misrepresent a link between the disputed domain name and the Complainant. In this case, as the record supports, the Respondent appears to have targeted the Complainant on the balance of probabilities.

All the preceding analysis leaves the Panel no other option than to conclude that the most likely intention of the Respondent was to intentionally attempt to attract, for commercial gain, Internet users to its website/disputed domain name by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or disputed domain name, as per illustrated under paragraph 3.1 of WIPO 3.0 Overview.

In light of the case's circumstances, based on the available records, the Panel finds that the Complainant has proven that the disputed domain name was registered and is used in bad faith according to paragraph 4(a)(iii) of the Policy.

4. Decision

For the preceding reasons and in concurrence with the provisions specified under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **nhamundi.com**: Transferred

PANELLISTS

Name	**Rodolfo Rivas Rea**

DATE OF PANEL DECISION 2024-04-15

Publish the Decision