Decision for dispute CAC-UDRP-106351

Case number	CAC-UDRP-106351
Time of filing	2024-03-14 09:47:49
Domain names	cryptamundi.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	Rapheuz

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 owner of the international trademark “AMUNDI”, no 1024160, registered on September 24, 2009, for various countries and for various subclasses in Nice class 36, including for banking and insurance related services (hereafter the “AMUNDI Trademark”).

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant claims to be Europe’s number one asset manager, with offices in Europe, Asia-Pacific, the Middle East, and the Americas. The Complainant states to have more than 100 million retail, institutional, and corporate clients all over the word.

The Complainant submitted evidence that it is the owner of the AMUNDI Trademark as referred to above.

The Complainant also states that it is the owner of various domain names that include the term “AMUNDI”. The Complainant submitted evidence that it is the registered owner of the domain name <amundi.com>, registered on August 26, 2004.

The disputed domain <cryptamundi.com> was registered on March 8, 2024. According to the Complainant, the disputed domain

name resolves to a parking page with commercial links.

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.

The Respondent accessed the online case file and filed below cited submission. Although repeatedly instructed by the CAC, the Respondent did not file a Response form provided in the case.

Respondent´s contention filed on March 15, 2024:

> “I made a purchase of this domain using artificial intellegence website askai.com I was looking for a unique name and the definition of cryptamundi in Latin means secret world or secret globe. At the same time the cryptocurrency relates to this so I have a business idea to create a blog, information website with real time data of those crypto markets so this is an information website which has absolutely nothing to do with your complain whatsoever. I think you just trying your way to bully and take away the domain from and let me also clarify, I have made this purchase I spent a lot of time thinking what's available to have and how I am going to go about this. I asked the AI to use Latin and english and I have purchased a few more domains to give me an edge over what I like to do. I have not done anything except buying the domain and because the crytp market is growing rapidly I believe you have seen this domain and want this yourself. That's my assumption of what I think but anyhow, I have not treaded on your toes on anything and you are making a complaint which clearly has no link to your business of what you have done before. No moves have been made except purchasing a domain and you are making assumptions. Go daddy had this property on sale, I used creativity and then then saw it available and I took it. I have the receipt for it and it's a purchase that I like to actually work on and not being irresponsible with the domain when I have only made this purchase withing a few weeks of your complaint. Clearly you have no proof over your claims you are using the system to take from me what you acquire.”

The Panel accepts this response as an administratively compliant response.

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. Confusing similarity

The disputed domain name consists of the Complainant's AMUNDI Trademark with the addition of the term “crypt”.

According to the Complainant, the addition of the term “crypt” is not sufficient to avoid a likelihood of confusion with the AMUNDI Trademark. The Complainant states 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”.

According to the Respondent, the disputed domain name does not refer to the Complainant (or its AMUNDI Trademark).

The Panel notes that the disputed domain name incorporates the entirety of the Complainant’s AMUNDI Trademark, with the sole addition of the term “crypt”, clearly referring to “crypto” or “cryptocurrency”. The Respondent confirms that the term “crypt” or “crypta” refers to “crypto” or “cryptocurrency”.

Numerous previous panels have accepted that the incorporation of a trademark in its entirety into a domain name is sufficient to establish that the disputed domain name is identical or confusingly similar to a registered trademark. Indeed, in most cases where a domain name incorporates the entirety of a trademark, the domain name is, for the purposes of the Policy, considered as confusingly similar to the trademark (see for example, the detailed discussion of this topic in Research in Motion Limited v. One Star Global LLC WIPO Case No. D2009-0227). The Panel remarks that Section 1.7 of WIPO Overview 3.0, states that, "in cases where a domain name contains the whole of a trademark, or where at least one dominant feature of the relevant trademark is recognisable in the domain name, the domain name shall normally be considered confusingly similar to that trademark for the purposes of UDRP status".

The Panel is of the opinion that the sole addition of the descriptive term “crypt” does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy. On the contrary, the Panel is of the opinion that the addition of this term enhances the likelihood of a confusing similarity.

The gTLD ".com" may be disregarded when it comes to considering whether a domain name is confusingly similar to a trademark in which the Complainant has rights.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights within the meaning of paragraph 4(a)(i) of the Policy.

2. Rights or legitimate interests

As regards paragraph 4(a)(ii) of the Policy, while the overall burden of proof rests with the Complainant, it is commonly accepted that this should not result in an often-impossible task of proving a negative. Therefore, numerous previous panels have found that the Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the Respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to come forward with such appropriate allegations or evidence, the Complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy. If the Respondent does come forward with some allegations or evidence of relevant rights or legitimate interests, the panel then must weigh all the evidence, with the burden of proof always remaining on the Complainant.

The Complainant argues that:

The Respondent is not known as the disputed domain name. The Respondent is not identified in the WHOIS database as the disputed domain name.

The Respondent is not affiliated with the Complainant and is not authorized by the Complainant to use the AMUNDI Trademark. The Complainant does not carry out any activity for, nor has any business with the Respondent.

The disputed domain name resolves to a parking page with commercial links. This does not constitute a bona fide offering of goods or services or legitimate non-commercial or fair use.

The Respondent states that the disputed domain name refers to the Latin for “secret world” or “secret globe” and that he wants to use the domain name for an information website or blog about cryptocurrency or crypto markets.

The Panel finds that the Respondent does not appear to have any rights or legitimate interests in the disputed domain name from the following facts:

There is no evidence at all that the Respondent is or has been commonly known by the disputed domain name or by the term “Amundi”. The WHOIS information does not provide any information that might indicate any rights to use of the term “Amundi”.

The Complainant’s Trademark has been used well before the registration date of the disputed domain name. The disputed domain name was registered on March 8, 2024, whereas the AMUNDI Trademark of the Complainant was registered on September 24, 2009.

There is no evidence to show that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers. On the contrary, it appears that the Respondent is taking advantage (or at least intends to take advantage) of the Complainant's name and registered AMUNDI Trademark. The Complainant offers to sell the domain name (the website available via the disputed domain name mentions: “obtenez ce domaine”, or “obtain this domain”) and adds several commercial links to other search queries.

The fact that the disputed domain name has been inactive since its registration does not necessarily point to a lack of rights or

legitimate interests. The Panel considers that the disputed domain name was created on March 8, 2024, and that the complaint was filed barely 5 days later on March 13, 2024.

The Respondent did not show to have any trademark rights or other rights in the term “Amundi” or in the term “cryptamundi”.

The Respondent does not seem to have any consent or authorisation to use the AMUNDI Trademark or variations thereof and does not seem to be related in any way to the Complainant.

Given the substantiated claims of the Complainant, and in particular the trademark rights of the Complainant, the Panel expected the Respondent to provide appropriate evidence and convincing arguments of the rights or legitimate interests he claims in the domain name.

More in particular, if the Respondent claims rights or legitimate interests in the disputed domain name based on a referral to the terms “crypta mundi” (Latin for “vault of the world”; the Respondent states that it translates as “secret world” or “secret globe”), the Respondent should have submitted evidence of its intended use and preparations and of the reasons why he chose these particular Latin words. The Respondent merely states: “I spent a lot of time thinking what's available to have and how I am going to go about this”. However, the Respondent does not provide any evidence of his preparations, of his plans, or of the reasons or circumstances for choosing this domain name. If the Respondent “spent a lot of time thinking”, he could have thought as well about respecting the trademark rights of the Complainant, especially when the trademark of the Complainant is included in its entirety in the domain name, together with the descriptive term “crypt”, referring to the financial services for which the Complainant’s trademark is registered. In light of a credible, well-documented and convincing claim (constituting a so called 'prima facie' case), the Panel finds that the response should also be inherently credible and supported by evidence.

In sum, the Panel finds that the Complainant did make a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. In particular, the Panel finds that the Complainant provided sufficient evidence that the Respondent is not related to the Complainant and did not have any authorisation to use the Complainant's AMUNDI Trademark in combination with the word "crypt" in the disputed domain name. The Panel further finds that the Respondent failed to provide evidence demonstrating rights or legitimate interests in the disputed domain name.

The Panel concludes that the Respondent does not have rights or legitimate interests in the disputed domain name.

3. Bad faith

The Complainant asserts that the Respondent registered the disputed domain name with actual knowledge of the AMUNDI Trademark. The Complainant argues that the AMUNDI Trademark is well-known.

In addition, the Complainant states that a Google search on the terms “CRYPT AMUNDI” refers to the Complainant.

Furthermore, the Complainant states that the disputed domain name points to a parking page with commercial links and that the Respondent registered and used the disputed domain name to attract Internet users for commercial gain to his own website.

Finally, the Complainant asserts that the Respondent registered the disputed domain name through a privacy service.

The Respondent states that the domain name refers to the Latin for “secret world” or “secret globe”, that the domain name is intended for an information website about cryptocurrencies or “crypto markets”, without any link to the Complainant. The Respondent also states that he used artificial intelligence for selecting the domain name and that he “spent a lot of time thinking what’s available”.

The Panel weighs these arguments and facts as follows:

The Complainant’s AMUNDI Trademark registration predates the registration of the disputed domain name with several years.

Several panels have already recognized the well-known character of the AMUNDI Trademark. See for example CAC-UDRP-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.”). See also CAC-UDRP-106239, Amundi Asset Management v. Egor Avramenko (“The Complainant’s trademark AMUNDI is well-known and predates the registration of the disputed domain name.”). See also CAC-UDRP-106143, Amundi Asset Management v. Peter Oblekwe (“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.”).

The Complainant states to have more than 100 million retail, institutional, and corporate clients all over the word. The Complainant submitted a screenshot of its website supporting this claim. The Respondent did not refute this claim.

The disputed domain name incorporates the AMUNDI Trademark in its entirety. The disputed domain name also incorporates the term “crypt”, referring to “cryptocurrency” (this is confirmed in writing by the Respondent). The Complainant's AMUNDI Trademark is valid for several services in class 36, inter alia "direct banking" and "banking services".

The webpage to which the disputed domain name resolves mentions that the disputed domain name is for sale and contains several commercial links.

On the balance of probabilities, it may be expected that the Respondent had knowledge of the existence of the Complainant and its activities, and of the existence of the Complainant's AMUNDI Trademark and the scope of this trademark (i.e. coverage of banking

services).

Given the combination of the word "crypt" and the Complainant's AMUNDI Trademark in the disputed domain name, given the scope of the activities of the Complainant, given the well-known character of the Complainant's AMUNDI Trademark in the sector of banking and asset management, given the fact that the Respondent confirms that he intends to use the disputed domain name for a website related to cryptocurrencies, given the fact that the Respondent intends to use the domain name for an “information website” (and thus should be expected to properly inform himself), given the contradictions in the argumentation of the Respondent (on the one hand, he simply used artificial intelligence for selecting the domain name, on the other hand he “spent a lot of time thinking” about a proper domain name; also, the Respondent states that he was looking for a “unique name”, but nevertheless he selected a name that was not unique at all), given the fact that the Respondent immediately put up the domain name for sale and included several commercial links (elements of fact that he does not address in his Response), and given the lack of evidence of actual or contemplated good-faith use, the Panel finds it likely that the Respondent was aware or should have been aware of the Complainant's trademark rights when registering the disputed domain name. It seems highly unlikely that the Respondent would not have been aware of the unlawful character of the disputed domain name at the time of its registration and use.

From these facts, the Panel concludes that the Respondent registered and used the disputed domain name to attract internet users to disrupt the business of the Complainant.

For all the reasons set out above, the Panel concludes that the Complainant did prove that the disputed domain name was registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **cryptamundi.com**: Transferred

PANELLISTS

Name	**Bart Van Besien**

DATE OF PANEL DECISION 2024-05-08

Publish the Decision