Decision for dispute CAC-UDRP-106490

Case number	CAC-UDRP-106490
Time of filing	2024-04-29 09:57:24
Domain names	amundistellar.com, stellar-amundi.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	Eric Smith

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 names.

IDENTIFICATION OF RIGHTS

The Complainant bases its Complaint on the following trademark:

- International trademark registration “AMUNDI”, no. 1024160, registered on September 24, 2009, for services in class 36.

FACTUAL BACKGROUND

The Complainant is an asset manager with 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, according to the available evidence.

The Complainant is the owner of the International trademark registration AMUNDI, no. 1024160, cited above.

The Complainant also owns of domain name <amundi.com>, registered on August 26, 2004.

The disputed domain names <amundistellar.com> and <stellar-amundi.com> were registered on April 23, 2004 and April 25, 2024 and are currently inactive. Based on the available evidence filed by the Complainant, it appears that the domain names are used in a

financial scam, where the Respondent attempts to pass off as the Complainant.

PARTIES CONTENTIONS

The Complainant's contentions are the following:

The disputed domain names <amundistellar.com> and <stellar-amundi.com> are confusingly similar to the Complainant's trademark AMUNDI, that the Respondent lacks rights or legitimate interests in the disputed domain names for a number of reasons and that the disputed domain names were registered and are being used in bad faith.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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 Panel agrees that both disputed domain names <amundistellar.com> and <stellar-amundi.com> are confusingly similar to the Complainant's earlier trademark AMUNDI.

The disputed domain names contain the Complainant’s trademark AMUNDI in its entirety with the addition of the descriptive term “stellar”, the second domain name <stellar-amundi.com> containing also a hyphen in between the two verbal parts of the disputed domain name. Such additions are not sufficient to escape the finding that both disputed domain names are confusingly similar to the Complainant’s earlier trademark and it does not change the overall impression of the designation as being connected to the trademark AMUNDI, the earlier trademark of the Complainant AMUNDI being recognizable within both disputed domain names.

Where the relevant trademark is recognizable within the disputed domain name, as this is the case, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Jurisprudential Overview 3.0”), point 1.8).

Moreover, the extension “.com” is not to be taken into consideration when examining the similarity between the Complainant’s trademark and the disputed domain names (WIPO Case No. D2005-0016, Accor v. Noldc Inc.). The mere adjunction of a gTLD such as “.com” is irrelevant as it is well established that the generic Top Level Domain is insufficient to avoid a finding of confusing similarity (WIPO Case No. 2013-0820, L’Oréal v Tina Smith, WIPO Case No. D2008-0820 Titoni AG v Runxin Wang and WIPO Case No. D2009-0877, Alstom v. Itete Peru S.A.).

Therefore, the Panel is satisfied that the first condition under the Policy is met.

2. Lack of Respondent's rights or legitimate interests

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 proof shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the disputed domain names. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the Policy.

Based on the available evidence, the Respondent does not appear to be known by the disputed domain names as such is not identified in the WHOIS database as the disputed domain names. The Respondent is not related in any way to the Complainant's business and is not an affiliated of such. The Complainant has never authorised the Respondent to make use of its trademark, nor of a confusingly similar trademark in the disputed domain names.

Based on the available evidence, both domain names are currently inactive, but it appears to be used in a financial scam, where the Respondent attempts to pass off as the Complainant.

The Panel notes that the Respondent had an opportunity to comment on the Complaint's allegations by filing a Response, which the Respondent failed to do.

Thus, the Panel is satisfied that the Complainant has at least established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. Accordingly, the Panel takes the view that also the second requirement under the Policy is met.

3. Bad Faith

Based on the available evidence, the Complainant's trademark AMUNDI was registered prior to both disputed domain names. Thus, the Respondent has chosen to register the disputed domain names in order to create a confusion with such trademark. Therefore, the Panel concludes that at the time of registration of the disputed domain names, the Respondent was well aware of the Complainant's earlier trademark and has intentionally registered one in order to create confusion with such trademark.

In the present case, the following factors should be considered:

(i) the Complainant's trademark AMUNDI predate the registration date of both disputed domain names;

(ii) the Respondent failed to submit any response and has not provided any evidence of actual or contemplated good faith use of the disputed domain names;

(iii) the Respondent registered the disputed domain names which includes in its entirety the Complainant's earlier trademark AMUNDI with the addition of the descriptive term "stellar";

(iv) the Respondent has no business relationship with the Complainant, nor was ever authorised to use domain names similar to the Complainant's trademark;

(vi) both domain names are currently inactive, but it appears to be used in a financial scam, where the Respondent attempts to pass off as the Complainant;

(v) the disputed domain names were registered with a privacy service which leads to the assumption that it was made in order to hide the Respondent's identity and also to prevent the Complainant from contacting him taking into account also all the above.

Considering the above, in the Panel's view, it is inconceivable that the Respondent will be able to make any good faith use of the disputed domain names.

In light of the foregoing, the Panel concludes that the Respondent has registered and has been using the disputed domain names in bad faith. Thus, also the third and last condition under the Policy is satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **amundistellar.com**: Transferred
2. **stellar-amundi.com**: Transferred

PANELLISTS

Name	Delia-Mihaela Belciu

DATE OF PANEL DECISION 2024-06-10

Publish the Decision