# Decision for dispute CAC-UDRP-106642

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| Case number | CAC-UDRP-106642 |
| Time of filing | 2024-06-24 15:12:36 |
| Domain names | amundi-gestion.com |

## Case administrator

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| Name | Olga Slanařová (Case admin) |

## Complainant

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| Organization | AMUNDI ASSET MANAGEMENT |

## Complainant representative

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| Organization | NAMESHIELD S.A.S. |

## Respondent

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| Organization | Unknown |

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 is the owner of the trademark AMUNDI, protected with International registration No. 1024160, registered on September 24, 2009 for services in class 36, designating various jurisdictions worldwide.

The Complainant is also the owner of the domain name <amundi.com>, registered and used since August 26, 2006.

FACTUAL BACKGROUND

The Complainant is the first asset manager in Europe by asset management and operates 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 disputed domain name was registered on 21 June 2024 by an unknown registrant who did not provide any name, surname or organization name at the time of the registration of the disputed domain name. The disputed domain name resolves to a parking page displaying several links related to the Complainant's field of business.

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, in summary:

A. Identity of Confusing Similarity

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's trademark AMUNDI as it incorporates it entirely. The addition of the term "gestion", meaning "management" in French, evokes the Complainant's activity and is not sufficient to avoid a confusing similarity of the disputed domain name with the Complainant's mark.

B. Respondent's lack of rights or legitimate interests

The Complainant maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interest. Once such a prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. The Complainant affirms that the Respondent is not known by the disputed domain name and is not related to the Complainant's business. The Respondent is not an affiliated of the Complainant and the Complainant did not authorize the Respondent to use its trademark AMUNDI in any way, including as part of the disputed domain name. Moreover, the disputed domain name points to a parking page containing commercial links. Such use is not a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain name.

C. Bad Faith

The Complainant contends that the Respondent registered and is being using the disputed domain name in bad faith. The AMUNDI trademark is well known. Besides, most results of a Google search on the terms "amundi gestion" refer to the Complainant. 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 mark.

Furthermore, the Complainant contends that the disputed domain name resolves to a parking page with commercial links. According to the Complainant, the Respondent has attempted to attract Internet users for commercial gain to its own website for its own commercial gain, which is evidence of bad faith.

Finally, the Complainant points out that the disputed domain name has been set up with MX records, which suggests that it may be actively used for email purposes.

The Respondent accessed the online case file, but 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

1. Identity or confusing similarity of the disputed domain name with the Complainant's mark (Para. 4(a)(i) of the Policy)

The disputed domain name consists of the Complainant’s trademark AMUNDI, followed by a hyphen and the French word "gestion", which in English means "management". The hyphen between the Complainant's mark AMUNDI and the word “gestion” makes the mark perfectly recognizable within the disputed domain name.According to the general opinion of UDRP Panels, whenever a domain name includes a complainant’s trademark there is confusing similarity. The addition of the descriptive French term “gestion” to the Complainant’s trademark cannot prevent a finding of confusing similarity under the first element of the Policy. According to section 1.8 of the “WIPO Jurisprudential Overview 3.0”, “[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

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

2. Rights or legitimate interests (Para. 4(a)(ii) of the Policy)

It is a generally accepted principle that when a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of proof of the rights or legitimate interests on the domain name shifts to the respondent. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see section 2.1. of the "WIPO Jurisprudential Overview 3.0").

Having reviewed the available records, the Panel notes that the Respondent does not appear to be commonly known by the disputed domain name and that the Complainant has no business or other kind of relationship with the Respondent.  Moreover, the Complainant did not authorise the Respondent to make use of its AMUNDI trademark, including as part of the disputed domain name.

At the time of the filing of the Complaint, the disputed domain name resolved to a parking page of the Registrar featuring several links, some of which relating to investments in equities, thus to the same activity carried out by the Complainant. It is likely that the Respondent is deriving a revenue from each click on these links. The use of a domain name in connection with pay-per-click links does not represent a bona fide offering, where such links capitalize on the reputation and goodwill of the Complainant’s mark or otherwise mislead Internet users, (section 2.9 of the "WIPO Jurisprudential Overview 3.0").

In the instant case, the Panel notes that the Complainant is the leading European asset manager, with more than 2 trillion euros under management, more than 100 million retail clients, and 1,000 institutional and corporate clients. The Complainant employs 5,500 employees, including 900 investment professionals and is present in the five world continents, either through local investment centres, joint ventures and investment hubs. Accordingly, the Panel believes that the Complainant's mark enjoys goodwill and reputation in its field of business and that the disputed domain name and corresponding use are highly misleading for the Internet users. Indeed, the disputed domain name incorporates the AMUNDI mark entirely, followed by the French word "gestion", meaning "management" in English that is strictly related to the Complainant's activity. The pay-per-click links appearing on the Registrar's parking page of the disputed domain name, refer to the Complainant's activity, considering that two of them relate to "software" - and it is a well-known fact that financial asset management companies mainly operate online through specific platforms, which require the use of software – while the third to equity investments. All these circumstances lead to the conclusion that the pay-per-click links on the parking page of the disputed domain name capitalize on the goodwill and reputation of the Complainant’s mark and can mislead the Internet users looking for the Complainant, inducing them to believe that the disputed domain name belongs to the Complainant, rather than to a third party.

Thus, the Panel is satisfied that also the second condition under the Policy is met.

3. Bad Faith (Para. 4(a)(iii) of the Policy)

In order to meet the third and last requirement under the Policy, the Policy requires that the Complainant must successfully prove that both the registration and use of the disputed domain name have been made in bad faith.

The Panel agrees with the Complainant that the Respondent was aware of the Complainant’s trademark at the time of the registration of the disputed domain name.  The Complainant’s trademark is distinctive and well known in its area of business. It therefore cannot be by simple coincidence that the Respondent chose to register a domain name exactly reproducing the Complainant’s trademark followed by the generic French word “gestion”. It is rather highly likely that the Respondent registered the disputed domain name with full knowledge of the Complainant’s trademark. This is also confirmed by the type of pay-per-click links appearing on the parking page associated with the disputed domain name, all relating to the Complainant's activity. Moreover, a keyword search on Google for "amundi" revealed results associated with the Complainant only.

The registration of a domain name incorporating a third party’s trademark, being aware of this trademark and without rights or legitimate interests, is a registration in bad faith.

As far as use in bad faith is concerned, the disputed domain name resolves to a parked page containing pay-per-click links to third party’s websites offering services relating to the Complainant’s activity. The Respondent is probably deriving an income from each click on these links. Such use amounts to use in bad faith as it capitalizes on the Complainant’s mark to attempt to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

Moreover, the Panel notes that the Respondent set up MX-Records for the disputed domain name, which enable the Respondent to communicate via email with the Complainant's potential customers through an email address reproducing the Complainant's AMUNDI mark. Any possible use of the disputed domain name for communication purposes without the Complainant's consent would be illegitimate and in bad faith.

Lastly, at the time of the registration of the disputed domain name, the Respondent omitted to provide its name, surname and/or organization name to the Registrar of the disputed domain name. Thus, the Respondent acted in breach of the Registration Agreement to conceal its true identity with the obvious purpose of making it more difficult and slowing down the exercise of the Complainant's rights. This behaviour is further evidence of bad faith.

In light of the foregoing, the Panel finds that the Complainant has established the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **amundi-gestion.com**: Transferred

## PANELLISTS

| Name | **Angelica Lodigiani** |
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DATE OF PANEL DECISION 2024-08-01

Publish the Decision