

Decision for dispute CAC-UDRP-104393

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| Case number | CAC-UDRP-104393 |
| Time of filing | 2022-03-03 09:12:53 |
| Domain names | amundi-ca-assurances.com |

Case administrator

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| Organization | Denisa Bilík (CAC) (Case admin) |
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Complainant

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| Organization | AMUNDI ASSET MANAGEMENT |
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Complainant representative

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| Organization | NAMESHIELD S.A.S. |
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Respondent

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| Organization | Transure Enterprise Ltd |
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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 has submitted evidence that it is the owner of the international word trademark n° 1024160 “AMUNDI”, valid in various countries including in the United States of America, registered on 24 September 2009, for various subclasses under class 36, among which services that relate to insurances (hereafter the “AMUNDI Trademark”).

FACTUAL BACKGROUND

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

The Complainant is Europe's number one asset manager by assets under management and has offices in 36 countries in Europe, Asia-Pacific, the Middle-East and the Americas. With more than €2.064 trillion in assets under management and over 100 million retail, institutional and corporate clients, the Complainant ranks in the top 10 globally.

The Complainant is the owner of the international trademark n° 1024160 AMUNDI (the AMUNDI Trademark), registered since 24 September 2009, for various subclasses under class 36, among which services that relate to insurances.

The Complainant is the owner the domain name <amundi.com>.

The Complainant asserts that, at the time of filing the complaint, the disputed domain name referred to a parking page with commercial links.

1. The Complainant contends that the disputed domain name <amundi-ca-assurances.com> is confusingly similar to the trademark 'AMUNDI'.

The disputed domain name contains the Complainant's trademark 'AMUNDI' in its entirety.

The addition of the terms "CA" and "ASSURANCES" is not sufficient to avoid a likelihood of confusion. On the contrary, it worsens the likelihood of confusion, as it refers to the Complainant's official website <https://www.amundi-ca-assurances.com/> (which also seems to be a domain name owned by the Complainant).

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".

It is also well established that the TLD 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, for instance:

- CAC Case No. 103252, AMUNDI ASSET MANAGEMENT v. lili sidi <amundiam.com>;
- WIPO Case No. D2020-1251, Amundi Asset Management v. David Joel Claude Zachara, I Visa Services Co Ltd <amundi-financeemissions.com>;
- WIPO Case No. D2019-1950, Amundi Asset Management v. Jean René <amundi-invest.com>.

Thus, the domain name <amundi-ca-assurances.com> is confusingly similar to a trademark in which the Complainant has rights.

2. In its non-standard communication of 12 April 2022, the Complainant further argues that the Respondent does not have any rights or legitimate interest in the disputed domain name.

The Complainant asserts that the Respondent is not known as the disputed domain name, nor is he related in any way to the Complainant's business. The Complainant further contends that the Respondent is not affiliated with the Complainant nor authorised by it in any way to use the trademark 'AMUNDI'. The Complainant does not carry out any activity for, nor has any business with the Respondent.

Lastly, the Complainant argues that the disputed domain name resolves to a parking page with commercial links, which is not a bona fide offering of goods or services or legitimate non-commercial or fair use.

Accordingly, the Respondent has no rights or legitimate interests to the disputed domain name.

3. The Complainant contends that the disputed domain name has been registered and is being used in bad faith.

The Complainant claims that its trademark "AMUNDI" is wellknown, and that the Respondent has registered the domain name with full knowledge of the Complainant's trademarks given the distinctiveness of the Complainant's trademark and reputation. Furthermore, the registration of the disputed domain name cannot be coincidental, as it directly refers to the Complainant's official website <<https://www.amundi-ca-assurances.com>>.

The Complainant also contends that the disputed domain name resolves to a parking page with commercial links. The Complainant contends the Respondent has attempted to attract Internet users for commercial gain to his own website thanks to the Complainant's trademark, which is an evidence of bad faith.

The Complainant concludes that the Respondent has registered and is using the disputed domain name in bad faith.

The Respondent did not file a response.

PARTIES CONTENTIONS

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. Confusing similarity

The disputed domain name consists of the Complainant's AMUNDI Trademark with the addition of the terms "CA" and "ASSRANCES".

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.

In this case, the Panel notes that the disputed domain name incorporates the entirety of the Complainant's AMUNDI Trademark. The Panel finds that the addition of the terms "CA" and "ASSRANCES" and the ".com" gTLD does not prevent a finding of confusing similarity under the first element of paragraph 4(a) of the Policy. Rather, the addition of the term "ASSRANCES", which strongly resembles the English and French word "ASSURANCES", can induce an association with the AMUNDI Trademark with the public. Indeed, the AMUNDI Trademark is registered for - inter alia - services that relate to insurances.

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

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 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 has to weigh all the evidence, with the burden of proof always remaining on the Complainant.

The Complainant contends that:

- (1) the Respondent is not known as the disputed domain name, nor is he related in any way to the Complainant's business;
- (2) the Respondent is not affiliated with the Complainant nor authorized by it in any way to use its AMUNDI Trademark; and
- (3) the Respondent does not carry out any activity for, nor has any business with the Respondent.

The Complainant has submitted a screenshot of the webpage available via the disputed domain name (dated March 1, 2022). This screenshot proves that, at the time of filing the complaint, the disputed domain name resolved to a parked page containing sponsored links, one of which even refers to the AMUNDI Trademark (the links mention "Professional Employers Organization"; "Best Online Stock Trading"; and "Amundi").

The Respondent did not file an administratively compliant (or any) response.

The Panel finds that the Complainant has at least made a prima facie case that the Respondent does not have rights or legitimate interests in the disputed domain name.

This finding is based on a combination of the following facts and arguments: The Complainant has shown that the Respondent does not appear to have any rights or legitimate interests associated with the AMUNDI Trademark nor with variations thereof such as "AMUNDI CA ASSRANCES". The Respondent does not seem to own any trademarks consisting of the terms "AMUNDI" or "AMUNDI CA ASSRANCES". The Respondent does not seem to have any consent to use the Complainant's AMUNDI Trademark or any variations thereof. The disputed domain name does not correspond to the name of the Respondent. The Respondent does not seem to be related to the Complainant, nor received any licence or authorisation to use the AMUNDI Trademark of any variation thereof. The Respondent is not commonly known under the AMUNDI Trademark. There is no evidence that the Respondent is making a legitimate non-commercial or fair use of the disputed domain name (or has any future plans to do so).

In sum, the Panel finds that the Complainant has made a prima facie case that the Respondent lacks 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 registration and use

The Complainant states that its AMUNDI Trademark is wellknown. According to the Complainant, given the distinctiveness of the Complainant's AMUNDI Trademark and reputation, the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark and with the aim to attract Internet users for commercial gain to the disputed domain name.

The Complainant further contends that the registration of the disputed domain name cannot be coincidental, since it bears a strong resemblance to the domain name <amundi-ca-assurances.com> of which the Complainant claims to be the owner.

The Panel finds that, on the balance of probabilities, it can be presumed that the Respondent had indeed knowledge of the existence of the Complainant and its activities, as well as the Complainant's AMUNDI Trademark, for the following reasons.

The Complainant's AMUNDI Trademark predates the registration of the disputed domain name.

The Complainant's AMUNDI Trademark is registered in the territory of the United States, where the Respondent is also located.

The term "ASSRANCES" in the disputed domain name strongly resembles the English / French word "ASSURANCES" (it is to be noted that the AMUNDI Trademark is registered for insurance services in class 36).

The disputed domain name bears a confusing resemblance to the domain name <amundi-ca-assurances.com>, of which the Complainant claims to be the owner (which seems to be confirmed by the mention of the Complainant on a screenshot of the website available via this domain name; moreover, this is not disputed by the Respondent).

The Complainant has shown that, at the time of filing the complaint, the disputed domain name resolved to a parked page containing sponsored links, one of which refers to the AMUNDI Trademark itself.

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., insurances services). In light of this, 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. It also seems highly unlikely that the Respondent would have come up with a domain name consisting of the terms "AMUNDI", "CA" and "ASSRANCES" without prior knowledge of the Complainant and its AMUNDI Trademark.

The Panel believes from the facts in this case that the Respondent had the AMUNDI Trademark of the Complainant in mind when registering and subsequently using the disputed domain name, presumably to attract Internet users for commercial gain to the disputed domain name.

For all of the reasons set out above, the Panel determines 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. **AMUNDI-CA-ASSRANCES.COM**: Transferred

PANELLISTS

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|------|------------------------|
| Name | Bart Van Besien |
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| DATE OF PANEL DECISION | 2022-04-22 |
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Publish the Decision
