

Decision for dispute CAC-UDRP-105345

Case number	CAC-UDRP-105345
Time of filing	2023-04-12 09:40:36
Domain names	ee-epargnant-amundi.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	AMUNDI ASSET MANAGEMENT
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Complainant representative

Organization	NAMESHIELD S.A.S.
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Respondent

Name	paulette axell
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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 submitted evidence that it is the registered owner of the international trademark No. 1024160 registered since 24 September 2009 for the word mark “AMUNDI” in class 36, and designated for numerous countries.

FACTUAL BACKGROUND

The Complainant 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 is also the owner of domain names including the trademark “AMUNDI”, such as the domain names <amundi.com>, registered and used since 26 August 2004, and <amundi-ee.com>, registered and used since 24 September 2009.

The disputed domain name was registered on 4 April 2023 and resolves to a login page copying the Complainant's official customer access site at <<https://epargnant.amundi-ee.com/#/connexion>>.

The Registrar confirmed that the Respondent is the current registrant of the disputed domain name and that the language of the registration agreement is English.

The Respondent has not filed a Response.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

The Complainant made the following contentions:

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 term “EPARGNANT” (meaning “SAVER”) and the abbreviation “EE” (for “EPARGNE ENTREPRISE”, meaning “COMPANY SAVINGS”) is not sufficient to avoid the likelihood of confusion. On the contrary, the addition of these terms worsens the likelihood of confusion, as they directly refer to the Complainant’s customer official access at <<https://epargnant.amundi-ee.com/#/connexion>>.

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

The Complainant then points to previous UDRP cases where panels confirmed rights over the term “AMUNDI”, in particular WIPO Case No. D2022-1931 <[epargneamundi-ee.com](https://www.wipo.int/amc/en/mediation/cases/d2022-1931/)>; WIPO Case No. D2022-0730 <[amundi-europe.com](https://www.wipo.int/amc/en/mediation/cases/d2022-0730/)>; WIPO Case No. D2019-1950 <[amundi-invest.com](https://www.wipo.int/amc/en/mediation/cases/d2019-1950/)>.

The Complainant further argues that it has made a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that 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 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.

The disputed domain name resolves to a login page copying the Complainant’s official customer access. This page could be used in order to collect personal information of the Complainant’s clients. Thus, the Respondent’s website cannot be considered as a bona fide offering of services or fair use, since the websites can mislead the consumers into believing that they are accessing the Complainant’s website. The Complaint refers to previous UDRP case law, where the panel concluded that where the respondent attempts to pass itself off as the complainant online, it is a blatant unauthorized use of the complainant’s mark and evidence that the respondent has no rights or legitimate interests in the disputed domain name.

Turning to the bad faith argument, the Complainant asserts that the disputed domain name is confusingly similar to its well-known trademark “AMUNDI” and the associated domain names. The Complainant contends the trademark “AMUNDI” is well-known, as already accepted by previous panels (eg. WIPO Case No. D2019-1335). The Complainant asserts that its trademark “AMUNDI” is used worldwide given that the Complainant is present in more than 30 countries, and ranks in the top 10 globally in asset manager by assets under management.

Given the distinctiveness of the Complainant’s trademark and reputation, it is reasonable to infer that the Respondent has registered the domain name with full knowledge of the Complainant’s trademarks. The Complainant points out that the disputed domain name resolves to a login page copying the Complainant’s official customer access. By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of his website (paragraph 4(b)(iv) of the Policy). Besides, the Respondent can collect personal information through these websites, namely credentials. The Complainant mentions that past panels concluded that using a domain name in such a way is a bad faith use (Forum Case No. 1770729 and Forum Case No. 1760987).

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

This is a proceeding pursuant to Paragraph 4 of the Uniform Domain Name Dispute Resolution Policy (the "Policy" or "UDRP"), the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") and the CAC Supplemental Rules.

Paragraph 15 of the Rules provides that the Panel shall decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

According to Paragraph 4(a) of the Policy, a complainant must prove each of the following: (A) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; (B) the respondent has no rights or legitimate interests in respect of the domain name; (C) the domain name has been registered and is being used in bad faith.

1. Identical or confusingly similar domain name

The Complainant demonstrated that it owns the asserted trademark registration for the "AMUNDI" word mark, which was registered long before the registration of the disputed domain name by the Respondent. It is well established that a nationally or regionally registered trademark confers on its owner sufficient rights to satisfy the requirement of having trademark rights for the purposes of standing to file a UDRP case. Therefore, the Panel finds that the Complainant has established such rights.

It is also well established that the generic top-level suffix may be disregarded when considering whether a disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, as it is a necessary technical requirement of a domain name.

The disputed domain name incorporates the Complainant's trademark "AMUNDI" in its entirety. 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 addition to the Complainant's trademark, the disputed domain name also contains the term "EPARGNANT" (which is a French word for "SAVER") and the abbreviation "EE" (which in the context of the Complainant's activities typically stands for "EPARGNE ENTREPRISE", meaning "COMPANY SAVINGS" in French). Addition of such descriptive terms to a well-known trademark included in the domain name in its entirety is, in the view of this Panel, not sufficient to avoid the likelihood of confusion.

While the content of the website associated with the domain name is usually disregarded, this Panel has no option but to also take note of the content at the disputed domain name which copies the Complainant's user access site at a highly similar domain <epargnant.amundi-ee.com> and which also actually contains the Complainant's trademark. It is absolutely clear that the Respondent seeks to target the Complainant's trademark through the disputed domain name.

The Panel therefore finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights.

2. Lack of rights or legitimate interests

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In particular, the Respondent is not in any way connected with the Complainant nor is it authorized to use the Complainant's trademark for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain name pursuant to Paragraph 4(c)(ii) of the Policy.

Bases on evidence submitted by the Complainant, the disputed domain name resolves to a login page copying the Complainant's official customer access. Such use is obviously fraudulent and could be indeed used for harmful purposes, for example to collect personal information of the Complainant's clients. Thus, the Panel is convinced that the Respondent's website cannot be considered as a bona fide offering of services or fair use, since the websites can mislead the consumers into believing that they are accessing the Complainant's website.

The Panel therefore finds that the Respondent has no rights or legitimate interest in the disputed domain name.

3. Registration and use of the disputed domain name in bad faith

With respect to the bad faith argument, the Complainant states, in summary: (a) that the disputed domain is confusingly similar to the Complainant's well-known trademark; (b) that the Respondent must have had actual knowledge of the Complainant's rights in its trademarks; and (c) that the Respondent uses the disputed domain name to copy the Complainant's official customer access and potentially for fraudulent purposes, such as to collect personal information and credentials of the Complainant's customers.

The Panel has already found that the disputed domain name is confusingly similar to the Complainant's trademark "AMUNDI". It is well established that the mere registration of a domain name that is confusingly similar to a trademark by an unaffiliated entity can lead to the presumption of bad faith.

Given the facts of this matter and the use of the disputed domain name, as described above, the Panel not only believes that the Respondent must have been aware of the existence of the Complainant and its trademark but also that the Respondent must have registered and must have been using the disputed domain name in bad faith for obviously fraudulent purposes.

Consequently, the Panel finds that the disputed domain name has been registered and has been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **ee-epargnant-amundi.com**: Transferred

PANELLISTS

Name	Vojtěch Chloupek
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DATE OF PANEL DECISION 2023-05-07

Publish the Decision