

Decision for dispute CAC-UDRP-105784

Case number **CAC-UDRP-105784**

Time of filing **2023-09-15 10:24:46**

Domain names **amundi-gruppe.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 **JULE RODRIGUE**

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 a well-recognized European assets manager company with offices in Europe, Asia-Pacific, the Middle-East and the Americas.

The Complainant owns the following Trademark:

- International trademark registration No. 1024160 AMUNDI registered on September 24, 2009, in force until September 24, 2029, previously registered in France, as the country of origin, designating Australia, Bahrain, European Union, Japan, Korea (Republic of), Norway, Singapore, Türkiye, USA, Switzerland, China, Egypt, Liechtenstein, Morocco, Monaco, Russian Federation and Ukraine at al., in IC 36 for insurance, consultancy, financial, banking operations, real state affairs, property management services et al.

The disputed domain name <**amundi-gruppe.com**> was registered on **September 10, 2023** and by the time of this Decision resolves to an inactive website.

FACTUAL BACKGROUND

The Complainant is a well-recognized European assets manager company with offices in Europe, Asia-Pacific, the Middle-East and the

Americas. The Complainant has over 100 million retail, institutional and corporate clients, and ranks in the top 10 globally.

Apart from the AMUNDI International Trademark, the Complainant also owns the domain name <amundi.com>, registered and used since August 26, 2004.

According to the evidence submitted before the Panel, the disputed domain name <amundi-gruppe.com> was registered on **September 10, 2023**, and on September 12, 2023 resolved to a parking page. By the time of this Decision, the disputed domain name resolves to an inactive website.

PARTIES CONTENTIONS

Response

The Respondent did not submit its Response replying to Complainant's contentions.

Complainant Contentions:

- The Complainant contends that the disputed domain name <amundi-gruppe.com> is confusingly similar to the trademark AMUNDI; that the disputed domain name contains the Complainant's trademark AMUNDI in its entirety plus the addition of the term "GRUPPE", which means "group" in German, which is not sufficient to avoid the likelihood of confusion, as 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", citing *Ing. h.c. F. Porsche AG v. Vasily Terkin*, WIPO Case No. D2003-0888.
- That the Complainant's rights over the term "AMUNDI" have been confirmed by previous panels, as in *Amundi Asset Management v. Domain Management*, CAC-UDRP Case No. 104650; *Amundi Asset Management v. Laurent Guerson*, WIPO Case No. D2022-0730; *Amundi Asset Management v. Jean René*, WIPO Case No. D2019-1950.
- The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name due to the Respondent is not known as the disputed domain name; that previous panels have held that a Respondent was not commonly known by a disputed domain name if the Whols information was not similar to the disputed domain name, citing *Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group*, NAF Case No. FA 1781783; *The Braun Corporation v. Wayne Loney*, NAF Case No. FA 699652.
- That the Respondent is not related in any way to the Complainant's business; nor affiliated or authorized in any way to use the trademark AMUNDI; that the disputed domain name resolves to a parking page, and that the Respondent did not use the disputed domain name, which confirms that Respondent has no demonstrable plan to use the disputed domain name.
- That given AMUNDI's distinctiveness, the Complainant's trademark reputation, and since it is a well-known Trademark, the Respondent knew of should have known that the disputed domain name included Complainant's trademark; that the additional word "gruppe" refers to the Complainant's structure; that an Internet search of the denomination "Amundi Gruppe", displays results related to the Complainant and its subsidiaries.
- That since the disputed domain name resolves to a parking page, the Respondent has not demonstrated any activity in respect of the disputed domain name, making impossible to conceive of any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate; that as prior WIPO UDRP panels have held, the incorporation of a famous mark into a domain name, coupled with an inactive website, may be evidence of bad faith registration and use, citing *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003; *CBS Broadcasting, Inc. v. Dennis Toeppen*, WIPO Case No. D2000-0400.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is 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

In relation to the First UDRP Element, the Complainant has proved before the Panel, that owns Trademark Rights over the term AMUNDI since 2009, which precede the registration of the disputed domain name.

The disputed domain name <amundi-gruppe.com> registered on **September 10, 2023**, it is composed by Complainant's Trademark "AMUNDI" and the descriptive German word "gruppe", meaning "group" in English, which according to the evidence it is intrinsically related to Complainant's business structure, enhancing rather than mitigating a finding of confusing similarity between the disputed domain name and the Complainant's Trademark (See Section 1.7 and Section 1.8. of the WIPO Overview 3.0; *Amundi Asset Management v. Leo Najman*, WIPO Case No. D2022-1931; *Amundi Asset Management v. Thierry Barboure*, CAC-UDRP Case No. 103346).

It is well established by the Domain Name Jurisprudence that for the purposes of the analysis of the First UDRP Element, in this case, the gTLD ".com", "is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test" (see point 1.11.1 of the WIPO Jurisprudential Overview 3.0").

Therefore, the disputed domain name <amundi-gruppe.com> is confusingly similar to Complainant's AMUNDI Trademarks.

In relation to the Second UDRP Element, to this Panel it is clear that:

- the Respondent registered the disputed domain name on September 10, 2023, meaning very well after (14 years at least) the Complainant's acquired its trademark rights over AMUNDI on September 24, 2009;
- the Complainant has never granted the Respondent any authorization, right or license to use AMUNDI trademark including within the disputed domain name, nor is the Respondent affiliated to the Complainant in any form or has endorsed or sponsored the Respondent or the Respondent's website;
- there is no evidence that the Respondent corresponds or has become commonly known by the disputed domain name; including by the WhoIs information;
- the Respondent is not making a bona fide offering of goods or services nor for a legitimate non-commercial or fair use of the disputed domain name, which is based on the Complainant's Trademark AMUNDI, which resolved to a parking page (at least until September 12, 2023), and currently to an inactive website (see *Amundi Asset Management v. Dorothy Lindsey*, WIPO Case No. D2022-0970; *Amundi Asset Management v. Domain Admin*, Whoisprotection.cc / *Pascale Buche*, WIPO Case No. D2021-0556).

Therefore, this Panel finds that the Complainant has successfully made a *prima facie* case, which was not rebutted in any manner by the Respondent and concludes that the Respondent have no rights or legitimate interests in respect of the disputed domain name.

In relation to the Third Element of the UDRP, this Panel analyses the following:

Registration in Bad Faith:

The Complainant is a recognized European assets management company, with consistent presence, including online, in Europe, Asia-Pacific, the Middle-East and the Americas. According to the evidence submitted in this case, the Complainant acquired its trademark rights on September 24, 2009, meaning 14 years before the Respondent registered the disputed domain name on September 10, 2023.

The Complainant claimed AMUNDI as a well-known Trademark, however, due to the limited evidence submitted by the Complainant, this Panel, in accordance to paragraph 10 of the UDRP Rules and Section 4.8 of the WIPO Overview 3.0, conducted limited research to confirm such assertion, for the purposes of this Decision. As a result, this Panel found that AMUNDI can be, for the purposes of this case, to be considered as a well-known trademark.

Section 3.2.2 of the WIPO Overview 3.0, states:

"Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's

mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark."

In relation to the use of a privacy service by the Respondent in case, to avoid being notified of a UDRP proceeding, supports an inference of bad faith as well (see point 3.6 of the WIPO Overview 3.0).

Therefore, this Panel concludes that the Respondent was fully aware about the Complainant and AMUNDI's Trademark worldwide reputation and value at the time of the disputed domain name's registration, meaning that the disputed domain name has been registered in bad faith.

Bad Faith Use

As described along this Decision, the disputed domain name, resolved at least until September 12, 2023, to a parking page. By the time of this Decision, the disputed domain name resolves to an inactive website.

Multiple UDRP Panelists, have addressed the inactivity of a disputed domain name according to the Passive Holding Doctrine, conceived in the [Telstra](#) Case. In relation to it, Section 3.3 of the WIPO Overview 3.0, states that:

"From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding.

While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include:

- (i) the degree of distinctiveness or reputation of the complainant's mark,
- (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use,
- (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and
- (iv) the implausibility of any good faith use to which the domain name may be put."

Therefore, the fact that the Respondent passively holds the disputed domain name, which reproduces a well-known Trademark as AMUNDI, the Respondent's lack of rights or any legitimate interests, the privacy service use, and the absence of its Response, fulfils with the Passive Holding's Doctrine (see *Amundi Asset Management v. Domain Admin*, *Whoisprotection.cc / Pascale Buche*, WIPO Case No. D2021-0556; *Amundi Asset Management v. Laurent Guerson*, WIPO Case No. D2022-0730; *Amundi Asset Management v. timmy jay*, CAC-UDRP Case No. 104937; *Amundi Asset Management v. rudy*, CAC-UDRP Case No. 103916).

Before concluding this Decision, to this Panel, it is relevant to emphasize, especially when assets and/or financial services are involved, that a single inactive domain name means an imminent risk with complex and endless consequences for a company, its trademarks and its valuable customers.

Therefore, this Panel concludes that, the disputed domain name is being used in faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	María Alejandra López García
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DATE OF PANEL DECISION	2023-10-12
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Publish the Decision
