

ADMINISTRATIVE PANEL DECISION

Amundi Asset Management v. thoma fiona
Case No. D2024-1540

1. The Parties

The Complainant is Amundi Asset Management, France, represented by Nameshield, France.

The Respondent is thoma fiona, France.

2. The Domain Name and Registrar

The disputed domain name <amundl-ee.com> is registered with Squarespace Domains LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 11, 2024. On April 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 12, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on April 15, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements 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 WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 8, 2024.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on May 13, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, a French corporation, is amongst the European leaders in financial assets management services, and one of the top ten worldwide, with offices in Europe, Asia-Pacific, the Middle East and the Americas. It serves more than 100 million retail, corporate and institutional clients.

The Complainant owns several registered trademarks containing the term “amundi”, including, inter alia, the International trademark registration No. 1024160 for AMUNDI, registered on September 24, 2009 (hereinafter referred to as: the “Mark”).

The Complainant owns many domain names with the term “amundi”, such as <amundi.com>, registered on August 26, 2004, and <amundi-ee.com>, registered on September 24, 2009. The latter is focused on the management of “Epargne Entreprise” assets (meaning in French Enterprise savings).

The disputed domain name was registered on April 5, 2024.

The disputed domain name did not resolve to any active website, and at the time of the Decision, it resolves to an error page.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name reproduces the Mark, in which it has rights, and is confusingly similar to the Mark insofar as the disputed domain name contains a misspelling of the Mark and that the letters “ee” after the Mark are not capable of dispelling the confusing similarity, as the Mark remains recognizable in the disputed domain name.

The Complainant also contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and never had any affiliation with the Complainant (which never authorized the Respondent to use the Mark in any manner).

Furthermore, the Complainant contends that the Respondent had knowledge of the Mark and registered the disputed domain name in bad faith, and is also using it in bad faith under the passive holding doctrine.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Procedural Aspects – Failure to Respond

As aforementioned, no Response was received from the Respondent.

Under the Rules, Paragraphs 5(f) and 14(a), the effect of a default by the Respondent is that, in the absence of exceptional circumstances, the Panel shall proceed to a decision on the basis of the Complaint.

The Panel does not find any exceptional circumstance in this case which would cause the Panel to proceed differently.

Under Paragraph 4(a) of the Policy, it is the Complainant's burden to establish that all three of the required criteria for a transfer of the disputed domain name have been met, even in the event of a default.

Under Paragraph 14(b) of the Rules, the Panel is empowered to draw such inferences from the Respondent's default as it considers appropriate under the circumstances.

In this case, the Panel finds that as a result of the default, the Respondent has failed to rebut any of the reasonable factual assertions that are made and supported by evidence submitted by the Complainant. In particular, by defaulting and failing to respond, the Respondent has failed to offer the Panel any of the types of evidence set forth in Paragraph 4(c) of the Policy or otherwise, from which the Panel might conclude that the Respondent has any rights or legitimate interests in the disputed domain name, such as making legitimate noncommercial or fair use of the disputed domain name.

Moreover, as discussed below, the Respondent has failed to provide any exculpatory information or reasoning that might have led the Panel to question the Complainant's arguments that the Respondent has acted in bad faith.

6.2. Requirements of Paragraph 4(a) of the Policy

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the Mark is recognizable within the disputed domain name, despite the Mark's last letter "i" having been replaced by the letter "l", which is typical of typosquatting.

Accordingly, the disputed domain name is confusingly similar to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

While the addition of another element here, such as the letters "ee" (preceded by a hyphen), may bear on assessment of the second and third elements, the Panel finds the addition of such element does not prevent a finding of confusing similarity between the disputed domain name and the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Regarding the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name, it is well established that a gTLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

The Panel notes that for the registration of the disputed domain name, the name “thoma fiona” was provided. The Panel is not aware, and no evidence has been brought forward, of the existence of a person or entity with such a name. Moreover, the use of the letters “ee” in the disputed domain name are a clear reference to the specialized domain name of the Complainant for “Epargne Entreprise”.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels 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. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. 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. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel notes the composition of the disputed domain name, which is confusingly similar to the Complainant’s Mark and to its domain name <amundi-ee.com> in use since 2009, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Furthermore, regarding the degree of distinctiveness or reputation of the Mark, a prior UDRP panel confirmed that the Mark is well known (see *Amundi Asset Management v. Whois Privacy Protection Foundation / daniel, clark*, WIPO Case No. [D2019-1335](#)).

Moreover, as noted above, the Respondent has failed to submit a response or to provide any evidence of actual or contemplated good-faith use.

Finally, considering the financial nature and size of the Complainant's operations and the fact that financial asset management is a regulated industry in France (where the Complainant is headquartered and where the Respondent is apparently located), the Panel finds it impossible to imagine any good faith use to which the disputed domain name could be put by the Respondent.

In addition, some UDRP panels have held that in certain circumstances, registrants of domain names have a duty to abstain from registering and using a domain name, which is either identical or confusingly similar to a prior trademark held by others and which would infringe upon or otherwise violate the rights of a third party. See Policy, Paragraph 2(b); *Nike, Inc. v. B. B. de Boer*, WIPO Case No. [D2000-1397](#); *Nuplex Industries Limited v. Nuplex*, WIPO Case No. [D2007-0078](#); *Mobile Communication Service Inc. v. WebReg, RN*, WIPO Case No. [D2005-1304](#); *BOUYGUES v. Chengzhang, Lu Ciagao*, WIPO Case No. [D2007-1325](#); *Media General Communications, Inc. v. Rarenames, WebReg*, WIPO Case No. [D2006-0964](#); and *mVisible Technologies, Inc. v. Navigation Catalyst Systems, Inc.*, WIPO Case No. [D2007-1141](#).

The Panel finds that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <amundl-ee.com> be transferred to the Complainant.

/Louis-Bernard Buchman/

Louis-Bernard Buchman

Sole Panelist

Date: May 23, 2024