

ADMINISTRATIVE PANEL DECISION

Amundi Asset Management v. Dia Minh

Case No. D2023-4974

1. The Parties

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

The Respondent is Dia Minh, United States of America.

2. The Domain Name and Registrar

The disputed domain name <amundifortune.com> (the “Domain Name”) is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 29, 2023. On November 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 30, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 November 30, 2023, 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 November 30, 2023.

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 December 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 11, 2024.

The Center appointed Dawn Osborne as the sole panelist in this matter on January 16, 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 is a large asset management company that is the owner of the trade mark AMUNDI registered, *inter alia* as international registration no 1024160 for financial and insurance services since September 24, 2009. It owns <amundi.com>, and <amunditechnology.com>.

The Domain Name registered in 2023 was pointed to a website copying (at least part of) the Complainant's website at "www.amunditechnology.com", but currently does not point to an active website.

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 Domain Name.

Notably, the Complainant contends that:

The Domain Name registered in 2023 is confusingly similar to the Complainant's trade mark (registered as an international registration for financial and insurance services since 2009) as it contains the Complainant's trade mark in its entirety, adding only the dictionary word "fortune", and the generic Top-Level Domain ("gTLD") ".com" which is a standard feature of a domain name, neither of which prevents confusing similarity between the Complainant's trade mark and the Domain Name. Many UDRP decisions have confirmed the Complainant's rights.

The Respondent has not been authorised by the Complainant and, with reference to the Whois details is not commonly known by the Domain Name.

Whilst it currently does not point to an active site, the Domain Name previously pointed to the official site of the Complainant at "www.amunditechnology.com", impersonating the Complainant for likely phishing purposes which cannot be a *bona fide* offering of goods or services or a legitimate noncommercial or fair use.

The Respondent has registered the Domain Name in opportunistic bad faith, intentionally to attract for commercial purposes Internet users to the Respondent's web site by creating a likelihood of confusion with the Complainant's trade mark or the source, sponsorship, affiliation or endorsement of the Respondent's web site and impersonating the Complainant for likely phishing purposes.

B. Respondent

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

6. Discussion and Findings

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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another dictionary term here, "fortune" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The gTLD ".com" is a functional element of a domain name and does not prevent confusing similarity between the Complainant's mark and the Domain Name being typically disregarded for the purposes of the confusing similarity test. [WIPO Overview 3.0](#), section 1.11.

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 Domain Name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent pointed the Domain Name to a website copying an official site of the Complainant at "www.amunditechnology.com", impersonating the Complainant, disrupting the Complainant's business with competing behaviour and intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark or the source of the Respondent's web site.

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.

The Domain Name was previously reproducing content copied from an official site of the Complainant, reproducing the Complainant's logo, and giving an overall impression that the website at the Domain Name was the Complainant's website or affiliated with the Complainant. Panels have held that the use of a domain name for illegal activity here, impersonation, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

The Domain Name currently does not point to an active site. 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 available record, in particular the previous bad faith use of the Domain Name, the Panel finds the non-use of the Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trade mark, the composition of the Domain Name and the failure of the Respondent to submit a Response, and finds that in the circumstances of this case the current passive holding of the Domain Name does not prevent a finding of bad faith under the Policy.

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 Domain Name <amundifortune.com> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: January 16, 2024