

## **ADMINISTRATIVE PANEL DECISION**

Amundi Asset Management v. Tee Yu  
Case No. D2023-5057

### **1. The Parties**

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

The Respondent is Tee Yu, Malaysia.

### **2. The Domain Name and Registrar**

The disputed domain name <amundtrade.pro> is registered with Gransy, s.r.o. d/b/a subreg.cz (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 5, 2023. On December 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 7, 2023, 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 (My Domain Provider) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 12, 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 December 12, 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 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 8, 2024.

The Center appointed Halvor Manshaus as the sole panelist in this matter on January 26, 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 operates within the field of asset management with over 100 million retail, institutional, and corporate clients. The Complainant has offices in European Union, Asia-Pacific, the Middle East, and Americas.

The Complainant is the owner of the international trademark no 1024160 of AMUNDI registered on September 24, 2009, for various services in class 36. The Complainant further operates domain names containing the AMUNDI trademark, such as <amundi.com> registered since August 26, 2004.

The disputed domain name was registered on November 30, 2023, and resolves to an inactive page. Before being deactivated, the disputed domain name resolved to a website similar to the Complainant's website that also displayed the Complainant's trademark.

#### **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 is confusingly similar to the Complainant's trademark AMUNDI, and that the suppression of the letter "i" and the addition of the terms "trade" and "pro" does not prevent the finding of confusing similarity as it does not change the overall impression of the designation as being connected to the Complainant's trademark.

Further, the Complainant holds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant asserts that the Respondent is not identified in the Whois database as the disputed domain name, and that this signifies that the Respondent is not commonly known as the disputed domain name. Additionally, the Complainant contends that it does not have any business with the Respondent, and that the Respondent is neither licensed nor authorized to use the Complainant's trademark AMUNDI or apply for registration of the disputed domain name. Further, the Complainant asserts that the disputed domain name pointed to a page copying the Complainant's official websites before being deactivated, which does not constitute a bona fide offering of services or a legitimate use of the disputed domain name as it misled Internet users to believe they were accessing the Complainant's website.

Furthermore, the Complainant asserts that the disputed domain name was registered and is being used in bad faith as the Complainant's trademark AMUNDI is well-known and that the Respondent knew of the trademark registration. Further, the Complainant holds that before the disputed domain name was deactivated, the Respondent intended to attract Internet users to its website for commercial purposes by pointing to a website copying the Complainant's official website.

##### **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 disputed 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 trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The disputed domain name incorporates the Complainant's trademark with the omission of one letter. The Panel finds that the disputed domain name contains sufficiently recognizable aspects of the Complainant's trademark. [WIPO Overview 3.0](#), section 1.9.

Although the addition of other terms, here "trade" and "pro", may bear on assessment of the second and third elements, the Panel finds the addition of such terms do 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.

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.

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.

The Panel has not been presented with, or discovered, any evidence that (i) the Respondent has received a license or other permission to use the Complainant's trademark or any domain name incorporating this mark; (ii) the Respondent is commonly known by the disputed domain name; (iii) the Respondent has acquired trademark rights to use the disputed domain name; or (iv) the Respondent is making legitimate noncommercial or fair use of the disputed domain name. Moreover, before being deactivated, the disputed domain name pointed to a website copying the Complainant's official website and thereby misleading Internet users to believe that they were accessing the Complainant's website. The Panel finds that such use of the disputed domain name does not constitute a bona fide offering of goods or services.

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 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.

Panels have held that the use of a domain name for illegal activity, here, claimed impersonation/passing off, 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 disputed domain name is deactivated, but before being deactivated, the disputed domain name resolved to a website containing the Complainant's well-known trademark. As such, the Panel finds it unlikely that the Respondent was unaware of the Complainant's trademark registration.

Furthermore, the fact that the disputed domain name was used to point to a website using the Complainant's trademark and copying the Complainant's website, suggests that the Respondent deliberately chose to register the disputed domain name to mislead Internet users for commercial gain. The Panel also notes that the disputed domain name comprises of the term "trade" that also is associated with the services that the Complainant offers.

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.

As regards the prior use described above, prior panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, 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 disputed domain name constitutes bad faith under the Policy.

Currently, the disputed domain name has been deactivated and is not in use.

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, 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. 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 and reputation of the Complainant's trademark, as well as the composition of the disputed domain name, 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.

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 <amundtrade.pro> be transferred to the Complainant.

*/Halvor Manshaus/*

**Halvor Manshaus**

Sole Panelist

Date: February 9, 2024