

ADMINISTRATIVE PANEL DECISION

Amundi Asset Management v. Join Smith
Case No. D2024-0156

1. The Parties

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

The Respondent is Join Smith, Hong Kong, China.

2. The Domain Names and Registrar

The disputed domain names <amondi-teckhnology.com> and <amondi-tekenologi.com> are registered with Amazon Registrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 15, 2024. On January 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 25, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (On behalf of amondi-teckhnology.com owner, Identity Protection Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 26, 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 January 29, 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 February 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 27, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on March 5, 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 French asset manager, counting with offices in Europe, Asia-Pacific, the Middle East and Americas, as well as with over 100 million clients.

In addition to the domain names <amundi.com> and <amunditechnology.com> registered, respectively, on August 26, 2004, and December 15, 2020 (Annex 5 to the Complaint), the Complainant is the owner, amongst others, of the International trademark registration No. 1024160, registered on September 24, 2009, successively renewed, for the word mark AMUNDI in class 36 (Annex 4 to the Complaint).

The disputed domain names were registered on January 11, 2024, and currently do not resolve to active webpages. In the past both resolved to webpages that reproduced the Complainant's official webpage available at <amunditechnology.com> (Annex 7 to the Complaint).

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its well-known AMUNDI trademark, merely replacing the letter "u" by the letter "o" and adding hyphens and the terms "teckhnology" and "tekenologi" which are not sufficient to change the overall impression of being connected to the Complainant's trademark, especially considering the Complainant's previous <amunditechnology.com> domain name.

As to the Respondent's lack of rights or legitimate interests, the Complainant contends that the Respondent:

- (i) is not commonly known by the disputed domain names;
- (ii) is not related in any way with the Complainant, not carrying out any activity for, nor having any relationship therewith;
- (iii) has not been licensed or granted authorization to make any use of the Complainant's trademark or to apply for the registration of the disputed domain names; and
- (iv) has used the disputed domain names in connection with a webpage that copies the Complainant's official website.

Lastly, the Complainant alleges that given the well-known status of the Complainant's trademark and the contents of the website that resolved from the disputed domain names copying the Complainant's official website the Respondent registered the disputed domain names with full knowledge of the Complainant's AMUNDI trademark. Therefore, the Complainant concludes that the Respondent has registered and is using the disputed domain names in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements which have to be met for this Panel to order the transfer of the disputed domain names:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present so as to have the disputed domain names transferred, according to 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.

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 names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of a hyphen and other terms, "teckhnology" and "tekenologi", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names 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.

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 names. 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 names such as those enumerated in the Policy or otherwise.

In that sense, the Complainant has indeed stated that the Respondent is not related in any way with the Complainant, not carrying out any activity for, nor having any relationship therewith; also not having the

Respondent been licensed or granted authorization to make any use of the Complainant's trademark or to apply for the registration of the disputed domain names.

Furthermore, panels have held that the use of a domain name for illegal activity (such as impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The use made of the disputed domain names reproducing the contents of the Complainant's domain name available at <amunditechnology.com> leads the Panel to the conclusion that the composition of the disputed domain names carries a risk of implied affiliation with the Complainant and thus, cannot confer rights or legitimate interests in the disputed domain names.

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.

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.

This case presents the following circumstances which indicate under the balance of probabilities bad faith registration and use of the disputed domain names:

- a) the composition of the disputed domain names clearly referring to the Complainant's well-known trademark and prior domain name registration for <amunditechnology.com> (previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4);
- b) the use of the disputed domain names to webpages that reproduced the contents of the Complainant's official website available at <amunditechnology.com>;
- c) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use by it of the disputed domain names; and
- d) the indication of incomplete or false contact details hindering the Center's ability to deliver written communication to the Respondent.

Furthermore, and considering the circumstances of this case, the Panel finds the current non-use of the disputed domain name does not prevent a finding of bad faith. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, 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 names <amondi-teckhnology.com> and <amondi-tekenologi.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: March 19, 2024