

## **ADMINISTRATIVE PANEL DECISION**

Amundi Asset Management v. QINGRU WU  
Case No. DCO2023-0063

### **1. The Parties**

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

The Respondent is QINGRU WU, China.

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

The disputed domain name <amundieff.co> is registered with Dynadot, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 12, 2023. On July 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 13, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 17, 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 the same day.

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 July 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 7, 2023.

The Center appointed Anna Carabelli as the sole panelist in this matter on August 11, 2023. 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 company with office in Europe, Asia-Pacific, the Middle East and the Americas. With over 100 million retail, institutional and corporate clients, the Complainant is one of the leading European asset managers and ranks in the top 10 globally.

The Complainant is the owner of the international trademark AMUNDI No. 1024160, registered on September 24, 2009, duly renewed, and designating services in International Classes 36. It also owns the domain name <amundi.com> registered on August 26, 2004.

The disputed domain name was registered on July 10, 2023, and resolves to a page where the disputed domain name is offered for sale.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant asserts and contends that:

- The disputed domain name is confusingly similar to the Complainant's trademark AMUNDI as it incorporates the trademark in its entirety with the mere addition of the letters "etf" and of the Country Code Top-Level Domain ("ccTLD") ".co". The presence of the letters "etf" (standing for "Exchange Traded Funds") is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark but rather reinforces such a confusion as being connected to the Complainant's business.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent: (i) has no connection whatsoever with the Complainant, (ii) has not been authorized or somehow given consent by the Complainant to use the trademark AMUNDI, and (iii) is not commonly known by the disputed domain name. The disputed domain name is not being used in connection with a *bona fide* offering of goods or services, or for a legitimate noncommercial or fair use, since it does not resolve to an active website. Indeed, the disputed domain name points to a page where the disputed domain name is offered for sale for 1950 USD. The Complainant contends that this general offer to sell the disputed domain name evidences the Respondent's lack of rights or legitimate interest.
- The disputed domain name was registered in bad faith. The Respondent was aware of and targeted the Complainant's trademark when registering the disputed domain name. The addition of the letters "etf" to the trademark AMUNDI cannot be coincidental and worsens the likelihood of confusion.
- The disputed domain name is being used in bad faith. The Complainant contends that the Respondent's failure to actively use the disputed domain name and general offer to sell it, demonstrate bad faith.

Based on the above, the Complainant requests that the disputed domain name be transferred to the Complainant.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs the Panel to decide the complaint based on the statements and

documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the Respondent, shall be evidence of the Respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant has established rights over the trademark AMUNDI based on the evidence submitted in the Complaint.

The disputed domain name consists of the Complainant's trademark AMUNDI with addition of the letters "etf", followed by the ccTLD ".co".

The addition of the ccTLD such as ".co" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test (see section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore, the relevant comparison to be made is with the second-level portion of the disputed domain name, *i.e.*, "amundietf". As highlighted in section 1.7 of the [WIPO Overview 3.0](#), the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. The disputed domain name entirely incorporates the Complainant's mark AMUNDI and this is a sufficient element to establish confusing similarity, as held by previous UDRP panels (*e.g.*, *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

As recorded in section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity under the first element.

Accordingly, the Panel finds that disputed domain name is confusingly similar to a mark in which the Complainant has rights. Therefore, the Complainant has established paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainant holds prior rights in the well-known AMUNDI mark, (b) the Respondent has not been authorized to use the Complainant's trademark in any way, and is not commonly known by the disputed domain name, and (c) the disputed domain name does not resolve to an active website but merely points to a page where the disputed domain name is offered for sale, and this evidences the Respondent's lack of rights or legitimate interest.

According to section 2.1 of the [WIPO Overview 3.0](#), 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.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. In addition, the nature of the disputed domain name (including the Complainant's trademark in its entirety with the addition of the term "etf" which is, more likely than not, an abbreviation for a term relevant to the Complainant's activity) suggests an implied affiliation with the Complainant. Further, by not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. In the Panel's view, the Respondent's lack of rights or legitimate interests is further evidenced by the fact that the disputed domain name is not actively used but merely points to a page displaying a general offer to sell the disputed domain name.

Based on the above, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith.

The disputed domain name incorporates the Complainant's trademark in its entirety, and was registered long after the Complainant had registered and used its AMUNDI trademark and the domain name <amundi.com>. Given the distinctiveness and well-established reputation of the Complainant's trademark (as also recognized by previous UDRP Panels, see among others *Amundi Asset Management v. Laurent Guerson* WIPO Case No. [D2022-0730](#), *Amundi Asset Management v. David Joel Claude Zachara, I Visa Services Co Ltd* WIPO Case No. [D2020-1251](#), *Amundi Asset Management v. Whois Privacy Protection Foundation / daniel, clark* WIPO Case No. [D2019-1335](#)) in all likelihood the Respondent could not ignore the Complainant's AMUNDI trademark at the time he/she registered the disputed domain name. Such fact suggests that the disputed domain name was registered in bad faith (see [WIPO Overview 3.0](#), section 3.2.2).

Concerning the use of the disputed domain name, the evidence submitted shows that the disputed domain name does not resolve to an active website. As stressed by many previous UDRP decisions the non-use of a domain name would not prevent a finding of bad faith. “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.” (See section 3.3 of the [WIPO Overview 3.0](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Each of these considerations point to the Respondent’s non-use of the disputed domain name being in bad faith. Specifically: (i) the Complainant’s trademark is distinctive and well established, (ii) the Respondent has failed to submit a response to the Complaint or provide any evidence of good-faith use, (iii) the Respondent has registered the disputed domain name through a privacy service. Under the circumstances of the case, this fact suggests the Respondent’s has taken steps to conceal its identity and supports an inference of bad faith (see section 3.6 of the [WIPO Overview 3.0](#)), and (iv) there is no conceivable good faith use to which the disputed domain name could be put by the Respondent, also in the light of the finding of confusing similarity in Section 6A above.

Based on the above, the Panel finds that the disputed domain name was registered and is being used in bad faith and the Complainant has established also paragraph 4(a)(iii) 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, <amundietf.co>, be transferred to the Complainant.

*/Anna Carabelli/*

**Anna Carabelli**

Sole Panelist

Date: August 24, 2023