

ADMINISTRATIVE PANEL DECISION

Amundi Asset Management v. Dorothy Lindsey
Case No. D2022-0970

1. The Parties

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

Respondent is Dorothy Lindsey, Germany.

2. The Domain Name and Registrar

The disputed domain name <epargne-amundi-ee.com> is registered with PSI-USA, Inc. dba Domain Robot (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 21, 2022. On March 22, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 23, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on March 30, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 30, 2022.

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 Respondent of the Complaint, and the proceedings commenced on April 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 26, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on April 27, 2022.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on May 9, 2022. 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

Complainant is a French company having offices in 36 countries in Europe, Asia-Pacific, the Middle East, and the Americas. It is a major asset manager with more than EUR 2 trillion in assets under management. It has offices in 36 countries and over 100 million clients.

Complainant owns the International trademark AMUNDI designating numerous countries (Registration No. 1024160 in International Class 36, registered on September 24, 2009), hereinafter referred to as the "Trademark".

Complainant also holds several domain names, including the domain name <amundi.com>.

The disputed domain name was registered on March 17, 2022, and resolves to a parking page.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the disputed domain name is identical or confusingly similar to the Trademark; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

(i) Complainant claims that the disputed domain name is identical or confusingly similar to its Trademark because it incorporates this Trademark in its entirety, and the addition of the word "épargne" (meaning "saving" in French) and of the abbreviation "ee" (standing in French for "*épargne entreprise*", meaning in English "business savings") is not sufficient to avoid confusing similarity, but rather increases the risk of confusion because it refers to Complainant's field of activities.

(ii) Complainant stresses that Respondent is not commonly known by the disputed domain name and has not been licensed or authorized by Complainant to use the Trademark. Complainant does not carry out any activity for, nor has any business with Respondent. The disputed domain name resolves to a parking page. Therefore, there is no evidence of Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services.

(iii) The Trademark has been extensively used to identify Complainant and its services world-wide. The disputed domain name was registered in bad faith because it is reasonable to infer that Respondent had knowledge of both Complainant and its well-known Trademark at the time it registered the disputed domain name.

Complainant also claims that Respondent's use of the disputed domain name is made in bad faith, as the disputed domain name resolves to a parking page and has been set up with MX records. Complainant contends that Respondent has not demonstrated any other activity in respect of the disputed domain name, and it is not possible to conceive of any plausible actual or contemplated active use of the disputed domain name by Respondent that would not be illegitimate, such as by being a passing off, an infringement of Complainant's rights under trademark law.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (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.

A. Identical or Confusingly Similar

The Panel is satisfied that Complainant owns a trademark registration for its Trademark.

The Panel notes that the disputed domain name incorporates the Trademark in its entirety. The addition of the word "epargne" and of the abbreviation "ee" does not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Trademark.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

On the basis of the submitted evidence and arguments, the Panel considers that Complainant has successfully established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name.

Indeed, the Panel notes that Complainant has never authorized Respondent to register and/or use any domain name incorporating the Trademark, nor granted any license or any authorization to use its Trademark.

The disputed domain name is moreover confusingly similar to the Trademark because it incorporates this Trademark in its entirety and adds the word "epargne" (meaning "saving" in French) and of the abbreviation "ee" (standing in French for "*épargne entreprise*", meaning in English "business savings") in a way that clearly targets Complainant.

As such, the Panel finds that the burden of production regarding this element shifts to Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

The Panel notes that Complainant's *prima facie* case remains un rebutted.

Furthermore, the evidence demonstrates that, at the time of filing of the Complaint, the disputed domain name directed to a parking page, which cannot qualify as a *bona fide* offering of goods and services. Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the disputed domain name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the disputed domain name.

Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the disputed domain name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

With regards to the registration of the disputed domain name, which encompasses the Trademark with the addition of the word “epargne” and of the abbreviation “ee”, the Panel considers it highly unlikely that, at the time of the registration of the disputed domain name, Respondent did not know about the Trademark, inasmuch the Trademark is extensively used, distinctive and has a strong reputation, especially in France where Respondent is based. Noting the composition of the disputed domain name, the Panel finds that Respondent registered it to take unfair advantage of its significance as a trademark owned by Complainant.

As to the use of the disputed domain name in bad faith, as previously mentioned, at the time of filing of the Complaint, the disputed domain name resolved to a parking page. In addition, the disputed domain name has been set up with MX records.

As previous UDRP panels have considered, a passive holding situation does not prevent a finding of bad faith when associated with other elements such as the degree of notoriety of the mark or lack of response, as is the case here (see section 3.3 of the [WIPO Overview 3.0](#)).

The Trademark is well-known. In addition, the establishment of MX records for a domain name points towards a potential active nefarious use of it, which, in the circumstances of this case, and particularly noting the composition of the disputed domain name, affirms Respondent’s bad faith. Therefore, the Panel finds that the requirement of registration and use in bad faith is satisfied, according to the Policy, paragraph 4(a)(iii).

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, <epargne-amundi-ee.com> be transferred to Complainant.

/Richard C.K. van Oerle/

Richard C.K. van Oerle

Sole Panelist

Date: May 23, 2022