

## **ADMINISTRATIVE PANEL DECISION**

Amundi Asset Management v. Leo Najman  
Case No. D2022-1931

### **1. The Parties**

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

The Respondent is Leo Najman, Germany.

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

The disputed domain name <epargneamundi-ee.com> (the “Domain Name”) 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 May 27, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 30, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on June 2, 2022 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 June 2, 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 the Respondent of the Complaint, and the proceedings commenced on June 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 27, 2022.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on July 5, 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**

The Complainant is an asset management company. Currently, it has offices in 36 countries in Europe, Asia-Pacific, the Middle-East and the Americas. The Complainant has over 100 million retail, institutional and corporate clients, as well as more than EUR 2,021 billion in assets under management.

The Complainant is the owner of the International Trademark AMUNDI No. 1024160 covering goods and services in class 36, registered on September 24, 2009.

The Complainant is also the owner of domain names incorporating its AMUNDI trademark, including <amundi.com> and <epargnant.amundi-ee.com>.

The Respondent registered the Domain Name on May 23, 2022.

In accordance with the screenshots attached to the Complaint, at the time of drafting the Complaint, the Domain Name resolved to an error page. As of the date of this Decision, the Domain Name also resolves to an error page.

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

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

The Complainant requests that the Domain Name be transferred to the Complainant. According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the Domain Name is confusingly similar to the AMUNDI trademark registration of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used 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 places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

(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 the disputed domain name; and

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

The requested remedy may only be granted if the above criteria are met.

At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

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

The first element that the Complainant must establish is that the Domain Name is identical or confusingly similar to the Complainant’s trademark in which it has rights.

The Complainant holds valid AMUNDI trademark registration, which precede the registration of the Domain Name.

The Domain Name incorporates the Complainant’s AMUNDI trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a registered trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The addition of the terms “epargne” (which translates as “saving” in French) and “-ee” (which in all likelihood constitutes an abbreviation of the term “epargne entreprise”) in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the Complainant’s trademark. UDRP panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms, whether descriptive, geographical, pejorative, meaningless, or otherwise, would not prevent a finding of confusing similarity under the first element. See section 1.8, [WIPO Overview 3.0](#).

The Top-Level Domain (“TLD”) “.com” in the Domain Name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1, [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainant’s AMUNDI trademark. Thus, the Complainant has proved the requirements under paragraph 4(a)(i) of the Policy.

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

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name.

The respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made preparations to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services prior to the dispute; or
- (ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or
- (iii) that it intends to make a legitimate, noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Although given the opportunity, the Respondents have not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence in the record that the Complainant’s AMUNDI trademark

registration predate the Respondent's registration of the Domain Name. There is no evidence in the case file that the Complainant has licensed or otherwise permitted the Respondent to use its AMUNDI trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it does not result from the evidence in the record that the Respondent makes use of the Domain Name in connection with a *bona fide* offering of goods or services, or it makes a legitimate, noncommercial or fair use of the Domain Name without intent for commercial gain. In fact, there is no evidence showing that the Respondent has used the Domain Name to date, or it has a demonstrable plan to use the Domain Name.

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence in the case file that refutes the Complainant's *prima facie* case. The Panel concludes that the Complainant has also proved the requirement under paragraph 4(a)(ii) of the Policy.

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

The third requirement the Complainant must prove is that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1, [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name were registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the AMUNDI trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration of the Domain Name, as it has been proven to the Panel's satisfaction that the AMUNDI trademark is well-known and unique to the Complainant. The Respondent could not likely reasonably ignore the reputation of services under this trademark.

The Panel also believes that the addition of the terms "epargne" (which translates as "saving" in French) and "-ee" (which in all likelihood constitutes an abbreviation of the term "epargne entreprise") in the Domain Name was made in purpose by the Respondent, when registering the Domain Name, as these term directly refer to the Complainant's customer official access portal at "www.epargnant.amundiee.com".

Moreover, as discussed above, it does not result from the evidence in the record that Domain Name has been used in any active way to date. As of the date of the Complainant, as well as this Decision, the Domain Name has resolved to an error page. In the overall circumstances of this case, the Panel finds that the

Respondent's passive holding of the Domain Name supports the finding of bad faith. As numerous UDRP panels have held, passive holding, under the totality of circumstances of the case, can constitute a bad faith use under the Policy. See section 3.3, [WIPO Overview 3.0](#).

Finally, as the Complainant demonstrated, the Respondent has set up MX-records for the Domain Name, allowing the Respondent to send and receive emails. Thus, the Domain Name can be potentially used for fraudulent email communications.

For the reasons discussed above, the Panel finds that the Complainants have proved the requirements under 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 Domain Name <epargneamundi-ee.com> be transferred to the Complainant.

*/Piotr Nowaczyk/*

**Piotr Nowaczyk**

Sole Panelist

Date: July 21, 2022