

ADMINISTRATIVE PANEL DECISION

Arm Limited v. Domains By Proxy, LLC / Armand Demiraj
Case No. D2022-1114

1. The Parties

The Complainant is Arm Limited, United Kingdom, represented by Quinn IP Law, United States of America (“United States”).

The Respondent is Domains By Proxy, LLC, United States / Armand Demiraj, United States.

2. The Domain Name and Registrar

The disputed domain name <armelectronics.tech> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 31, 2022. On April 1, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 4, 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 the Complainant on the same date, 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 April 10, 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 April 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 9, 2022.

On April 21, 2022, the Respondent sent an email communication to the Center asking whether the Complainant was interested in settling the case and, if so, what its offer was. Upon the Complainant’s request, the proceeding was suspended on May 2, 2022 and thereafter reinstated on July 8, 2022. The new due date for Response was July 16, 2022. The Respondent did not submit any formal response.

On July 17, 2022, the Complainant submitted a supplemental filing. On July 18, 2022, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Edoardo Fano as the sole panelist in this matter on August 2, 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.

The Panel considers admissible the Complainant's supplemental filing, as it deals with communications between the Parties that happened after the notification of the Complaint, and notes that the Respondent was copied to the email communication submitting the Complainant's supplemental filing.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules and the Supplemental Rules and without the benefit of a formal response from the Respondent.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

The Complainant is Arm Limited, a United Kingdom company operating in the technological field and owning several trademark registrations for ARM, among which:

- United Kingdom Trademark Registration No. UK00002000006 for ARM, registered on January 29, 1999;
- European Union Trademark Registration No. 001112986 for ARM, registered on June 8, 2000;
- United States Trademark Registration No. 2,397,339 for ARM, registered on October 24, 2000.

The Complainant also operates on the Internet at the main website "www.arm.com", as well as with many other domain names incorporating the ARM trademark with other generic Top-Level Domains ("gTLDs") and country code Top-Level Domains ("ccTLDs").

The Complainant provided evidence in support of the above.

According to the WhoIs records, the disputed domain name was registered on August 16, 2021, and redirects to a parking page with sponsored links some of which concern the same products as those of the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its trademark ARM, as the disputed domain name wholly incorporates the Complainant's trademark, with the addition of the term "electronics".

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainant to use its trademark within the disputed domain name, it is not commonly known by the disputed domain name, nor is it making a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademark ARM is distinctive and internationally known in the technological field. Therefore, the Respondent targeted the Complainant's trademark at the time of registration of the disputed domain name and the Complainant contends that the use of the disputed domain name for attracting Internet users for commercial gain by creating likelihood of confusion with the Complainant's trademark qualifies as bad faith registration and use. Finally, in its supplemental filing the Complainant submits that, during the suspension of the current proceeding, the Respondent offered to sell the disputed domain name to the Complainant for USD 10,000, a cost that exceeds the reasonable out-of-pocket expenses reimbursement amount.

B. Respondent

The Respondent has made no formal reply to the Complainant's contentions.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn (see, e.g., *Reuters Limited v. Global Net 2000, Inc.*, WIPO Case No. [D2000-0441](#); *Microsoft Corporation v. Freak Films Oy*, WIPO Case No. [D2003-0109](#); *SSL INTERNATIONAL PLC v. MARK FREEMAN*, WIPO Case No. [D2000-1080](#); *ALTAVISTA COMPANY v. GRANDTOTAL FINANCES LIMITED et. al.*, WIPO Case No. [D2000-0848](#); *Confédération Nationale du Crédit Mutuel, Caisse Fédérale du Crédit Mutuel Nord Europe v. Marketing Total S.A.*, WIPO Case No. [D2007-0288](#)).

In this case, the Respondent submitted an informal email communication on April 21, 2022, stating the following:

"Hello, Please let me know if your client is interested in settling the case. If so, what is their offer? Best".

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (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.

A. Identical or Confusingly Similar

The Panel finds that the Complainant is the owner of the trademark ARM both by registration and acquired reputation and that the disputed domain name is confusingly similar to the trademark ARM.

Regarding the addition of the term "electronics", the Panel notes that it is now well established that the addition of terms or letters to a domain name does not prevent a finding of confusing similarity between the disputed domain name and the trademark (see, e.g., *Aventis Pharma SA., Aventis Pharma Deutschland GmbH v. Jonathan Valicenti*, WIPO Case No. [D2005-0037](#); *Red Bull GmbH v. Chai Larbthanasub*, WIPO Case No. [D2003-0709](#); *America Online, Inc. v. Dolphin@Heart*, WIPO Case No. [D2000-0713](#)). The addition

of the term “electronics” does not therefore prevent the disputed domain name from being confusingly similar to the Complainant’s trademark. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

It is also well accepted that a gTLD, in this case “.tech”, is typically ignored when assessing the similarity between a trademark and a domain name. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Complainant has therefore met its burden of proving that the disputed domain name is confusingly similar to the Complainant’s trademark, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Respondent has failed to file a formal response in accordance with the Rules, paragraph 5.

The Complainant in its Complaint, and as set out above, has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. It asserts that the Respondent, who is not associated with the Complainant in any way, is not using the disputed domain name for a legitimate noncommercial or fair use or in connection with a *bona fide* offering of goods or services. The disputed domain name is used for a parking page with sponsored links for technological products and services.

The *prima facie* case presented by the Complainant is enough to shift the burden of production to the Respondent to demonstrate that it has rights or legitimate interests in the disputed domain name. However, the Respondent has not presented any evidence of any rights or legitimate interests it may have in the disputed domain name, and the Panel is unable to establish any such rights or legitimate interests on the basis of the evidence in front of it.

Moreover, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation noting the added term “electronics” and the TLD “.tech” which is a reference to “technology”, both terms related to the Complainant’s sector of business. See [WIPO Overview 3.0](#), section 2.5.1. The use of the disputed domain name to host a parked page comprising pay-per-click (“PPC”) links does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the Complainant’s mark, see [WIPO Overview 3.0](#), section 2.9.

The Panel therefore finds that paragraph 4(a)(ii) of the Policy has been satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that “[...] for the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that [the Respondent has] registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or

(ii) that [the Respondent has] registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the Respondent has] engaged in a pattern of such conduct; or

(iii) that [the Respondent has] registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the domain name, [the Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the Respondent's] website or location or of a product or service on [the Respondent's] website or location".

Regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant's trademark ARM in the technological field is clearly established and the Panel finds that the Respondent likely knew of the Complainant and its trademark, and deliberately registered and used the disputed domain name in bad faith, especially because of the composition of the disputed domain name, and the content of the website to which the disputed domain name resolves, which consists of PPC links, including links to the same products as the Complainant.

In fact, the Panel finds that the disputed domain name is also used in bad faith since in the relevant website there are PPC links, even in the case where they are automatically generated, referring to the same products as those of the Complainant, and the Respondent cannot disclaim responsibility for the website content (see [WIPO Overview 3.0](#), sections 3.5 and 3.2.3).

The above suggests to the Panel that the Respondent intentionally registered and is using the disputed domain name in order to attract, for commercial gain, Internet users to its website in accordance with paragraph 4(b)(iv) of the Policy.

Moreover, the Panel considers that the nature of the disputed domain name, which is, as noted above, inherently misleading, further supports a finding of bad faith. See, [WIPO Overview 3.0](#), section 3.2.1.

In addition, the Panel notes that according to the Complainant's supplemental filing attaching an email exchange between the Parties, the Respondent attempted to sell the disputed domain name for USD 10,000 which it claimed were its out-of-pocket costs. In response to the Complainant's request for evidence of the same, the Respondent merely inquired if the Complainant had a counteroffer. This leads the Panel to believe that the requested amount was in fact in excess of the Respondent's out-of-pocket costs. This is not the end of the story however, as it would be expected that one in the business of legitimately buying and selling domain names would do so for a profit. What strikes the Panel is that the particular proposed sale price was such that it targeted the relatively deep pockets of the Complainant alone, and was not bought with a view to selling it to a party other than the Complainant on the open market; in the Panel's view that throws some light on the Respondent's probable motives for the registration of the disputed domain name, which supports a finding of bad faith under the Policy.

The Panel finds that the Complainant has presented evidence to satisfy its burden of proof with respect to the issue of whether the Respondent has registered and is using the disputed domain name in bad faith.

The Panel therefore finds that paragraph 4(a)(iii) of the Policy has been satisfied.

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 <aramelectronics.tech> be transferred to the Complainant.

/Edoardo Fano/

Edoardo Fano

Sole Panelist

Date: August 16, 2022