

ADMINISTRATIVE PANEL DECISION

Archer-Daniels-Midland Company v. shimin li, Softvip
Case No. D2023-0034

1. The Parties

The Complainant is Archer-Daniels-Midland Company, United States of America, represented by Innis Law Group LLC, United States of America.

The Respondent is shimin li, Softvip, China.

2. The Domain Name and Registrar

The disputed domain name <admworld.net> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 4, 2023. On January 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 5, 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 (NameSilo, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 6, 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 amendment to the Complaint on January 6, 2023.

The Center verified that the Complaint together with the amendment to the 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 January 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 7, 2023.

The Center appointed Miguel B. O’Farrell as the sole panelist in this matter on February 13, 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 was founded in 1902 and is now a multi-billion company headquartered in the United States of America (United States) with business areas that include printing and publishing; fuel production, including bioethanol and biodiesel; logistic services (agricultural storage and transportation services) and research and development services.

The Complainant owns several trademark registrations in many jurisdictions around the world for ADM, including the following:

United States Trademark Registration No. 1386430 ADM, registered on March 18, 1986, in classes 1, 4, 12, 16, 29, 30, 31, 33 and 39;

United States Trademark Registration No. 2766613 ADM, registered on September 23, 2003, in classes 16, 35, 36 and 42.

The Complainant has registered and has been using the domain name <admworld.com> to promote its business since 1996.

The disputed domain name <admworld.net> was registered on December 9, 2022, which at the time of drafting this decision does not resolve to an active webpage. At the time the Complaint was filed, the disputed domain name was used to resolve to a website mimicking the Complainant's official website.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar with the trademark ADM in which the Complainant has rights and that the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

The Complainant was founded in 1902 and now is an international Company with over 30.000 employees serving more than 140 countries around the world, leader of various business areas with net sales of USD 65 billion in 2019.

The ADM mark was registered and has been continuously used in the United States at least as early as 1923.

After receiving notice that the disputed domain name was being promoted in a You Tube video that was promoting a fraudulent scheme involving an investment mobile app that displayed the ADM mark and claimed that upon purchasing certain investment plans, the purchaser would be given a daily income return, the Complainant filed the requisite trademark and counterfeit complaints against You Tube, and the video has since been removed.

As shown in the relevant attached screenshot of the webpage to which the disputed domain name resolves, it contains language that has been directly plagiarized from the Complainant's website "www.adm.com", such as "ADM's purpose is to unlock the power of nature, to enrich the quality of life". The Complainant's website states "Unlocking nature, Enriching Lives". The Respondent has stolen headlines from ADM's legitimate business and pasted them as their own in a section of the website titled "News".

By going as far as to copy news articles from ADM the Respondent has shown that it has taken many steps to fraudulently pass off its website as being affiliated with, if not completely owned by the Complainant.

The Respondent has never been commonly known as a business, an individual or an organization by the disputed domain name. The Complainant has not licensed or consented to allow the Respondent to use its ADM mark or to register the disputed domain name and has no connection or affiliation with the Respondent.

The Respondent has only used the disputed domain name, almost identical to the Complainant's <adm.com> and <admworld.com> domain names, to impersonate the Complainant and mislead website visitors, obtain their phone numbers and possibly additional identifying information, and encourage them to join a scheme to make money. The Respondent is using the Complainant's ADM mark, logos, photos of buildings displaying these marks, language pulled from the Complainant's website and news headlines from the Complainant to impersonate the Complainant.

Taking into consideration the above actions, along with the fact that the Complainant has registered and been using the nearly identical domain name <admworld.com> since 1996, it is clear that the Respondent is acting fraudulently by maintaining the disputed domain name.

The Respondent has clearly registered the disputed domain name and used the trademark ADM name and logo solely to commit fraud, indicating its intentional attempt to create a likelihood of confusion with the Complainant's famous trademark ADM and trade off the goodwill associated with its ADM mark and <adm.com> and <admworld.com> domain names.

Finally, the Complainant requests the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's ADM trademark.

The disputed domain name incorporates the Complainant's trademark ADM in its entirety, with the addition of the word "world", which does not prevent a finding of confusing similarity. Section 1.8 of [WIPO Overview 3.0](#) provides that when the relevant trademark is recognizable within the disputed domain name – as it occurs in this case - the addition of other terms (whether descriptive or otherwise) would not prevent a finding of confusing similarity under the first element.

The ".net" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark ADM in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a domain name by demonstrating any of the following non-exclusive defenses:

- (i) before any notice to it of the dispute, the respondent's use of, or demonstrable 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; or
- (ii) the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain, to misleadingly divert consumers, page 4.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established, as it is put in section 2.1 of [WIPO Overview 3.0](#), that a complainant is required to make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. Once such *prima facie* case is made, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other circumstances to suggest that the Respondent has rights or legitimate interests in the disputed domain name.

Likewise, and as further discussed under section 6.C of this decision, it does not seem that the Respondent is making any legitimate noncommercial or fair use of the disputed domain name, but rather that the disputed domain name is being used for the purpose of deriving unfair monetary advantage by confusing Internet users and leading them to believe that the site to which the disputed domain name relates is an official site of the Complainant.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Limited. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark ADM mentioned in section 4 above (Factual Background) when it registered the disputed domain name.

The Respondent when registering the disputed domain name has targeted the Complainant's trademark ADM by adding the word "world" with the intention to confuse Internet users and capitalize on the fame of the Complainant's name and trademark for its own monetary benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of [WIPO Overview 3.0](#)).

The disputed domain name resolving (at the time of the filing of the complaint) to a website impersonating the Complainant and misleading Internet users to obtain their phone numbers and possibly additional identifying information is evidence of bad faith use. The Panel finds that the Respondent has registered and uses the disputed domain intentionally to attempt to attract for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement. This amounts to bad faith under paragraph 4(b)(iv) of the Policy.

Furthermore, the Panel notes that currently the disputed domain name resolves to an inactive website. Panelists have found that non-use of a domain name does not prevent a finding of bad faith under the doctrine of "passive holding" when circumstances exist such as the distinctiveness or reputation of the complainant's mark, the failure of the respondent to submit a formal response or to provide any evidence of actual or contemplated good faith use, and the implausibility of any good faith use to which the disputed domain name may be put. The Panel finds that all these circumstances are relevant to this administrative proceeding and therefore that a finding of bad faith lies under the doctrine of "passive holding" (section 3.3 of [WIPO Overview 3.0](#)).

The Panel finds that the Respondent has registered and uses the disputed domain name in bad faith and that that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

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 <admworld.net> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: February 21, 2023