

ADMINISTRATIVE PANEL DECISION

Arkema France v. Mustapha Jatta

Case No. D2023-1884

1. The Parties

The Complainant is Arkema France, France, represented by Fross Zelnick Lehrman & Zissu, PC, United States of America.

The Respondent is Mustapha Jatta, United States of America.

2. The Domain Name and Registrar

The disputed domain name <arkemagroupus.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 26, 2023. On April 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 28, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 May 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 31, 2023.

The Center appointed Masato Dogauchi as the sole panelist in this matter on June 7, 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

Whereas the Respondent has not submitted any formal response, the following information from the Complaint is found to be the factual background of this case.

The Complainant is a French chemical company formed in 2004 which has offices in 55 countries, employing over 20,000 employees. The Complainant operates 136 industrial facilities in Europe, North America and Asia and has sales subsidiaries worldwide. The Complainant has three business segments: high performance materials, industrial specialties and coating solutions. The Complainant makes and sells a variety of products including fluorochemicals, technical polymers, thiochemicals, functional additives, industrial coatings, acrylics, hydrogen peroxide, organic peroxides and molecular sieves.

The name of the Complainant consists of “arkema” and “france”, name of a country, and the Complainant owns ARKEMA trademark in many countries such as follows:

- United States of America Registration, No. 3082057, registered on April 18, 2006;
- Brazilian Registration, No. 911301933, registered on April 16, 2019;
- United Kingdom Registration, No. UK00911186962, registered on February 11, 2013;
- International Registration No. 1665655, registered on April 21, 2022.

The Complainant has been using the ARKEMA trademark for over a decade and its business and products can be found at “www.arkema.com”.

The disputed domain name <arkemagroupus.com> was registered on April 22, 2023. There is currently no active website associated with the disputed domain name, which is, however, configured for use with email servers. There are several cases in which the other domain names incorporating the ARKEMA trademark were used in sending emails to try to cheat Internet users by claiming that the senders are associated with the Complainant’s American subsidiary.

5. Parties’ Contentions

A. Complainant

The Complainant’ contentions are divided into three parts as follows:

First, the Complainant asserts that the disputed domain name is confusingly similar to its trademark, since the disputed domain name incorporates the entirety of the Complainant’s ARKEMA trademark. The additional terms can be divided into three. The first additional term, “group,” following to the ARKEMA trademark should be considered to aggravate rather than diminish the likelihood of confusion. The second additional term, “us,” is a geographical indicator, which should be considered to add to rather than diminish the likelihood of confusion. And, finally, the third one, “.com,” is a generic Top-Level Domain (“gTLD”) extension, which should not be taken into consideration when judging confusing similarity. The additional terms should not be considered sufficient to make the disputed domain name distinguishable from the Complainant’s ARKEMA trademark. Accordingly, the disputed domain name should be determined to be confusingly similar to the Complainant’s ARKEMA trademark.

Second, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant confirms that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant’s ARKEMA trademark. And, given that the Complainant’s adoption and extensive use of the ARKEMA trademark predates the Respondent’s registration of the disputed domain name, the burden is on the Respondent to establish its rights or legitimate interests in the disputed domain name. Since the Respondent has not responded at all, the requirement that the Respondent has no rights or legitimate interests in respect of the disputed domain name should be determined to be fulfilled.

Third, the Complainant asserts that the disputed domain name has been registered and is being used in bad faith. In consideration that the Complainant's ARKEMA trademark is well-known within the industries regarding to industrial specialties, high performance materials, and coating solutions and has been enjoying widespread international recognition, it should be inconceivable that the Respondent could have been unaware of the Complainant's ARKEMA trademark when the Respondent registered the disputed domain name. The fact that the Respondent registered the confusingly similar domain name without authorization is, in and of itself, evidence of its bad faith registration. In addition, the fact that the Respondent has likely used confusingly similar domain names and its associated email servers to impersonate the Complainant is further evidence that the Respondent knew of the Complainant's rights in the ARKEMA trademark and suggests the Respondent's opportunistic bad faith in the disputed domain name. While the disputed domain name is not currently associated with an active website, such non-use should be within the concept of the bad faith registration. Thus, the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

In accordance with the Rules, paragraph 15(a), a panel shall decide a case on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable. Since the Respondent has not made any substantive arguments in this case, the following decision is rendered on the basis of the Complainant's contentions and other evidence submitted by the Complainant.

In accordance with the Policy, paragraph 4(a), in order to qualify for a remedy, the Complainant must prove each of the following:

- (i) The disputed domain name is identical or confusingly similar to a trade mark or service mark in which the Complainants have 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 has rights in the ARKEMA trademark.

The disputed domain name incorporates the Complainant's ARKEMA trademark in its entirety. Such incorporation is, in principle, by itself enough to have the disputed domain name to be confusingly similar to the Complainant's ARKEMA trademark. Where the Complainant's ARKEMA 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. See section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights. The above requirement provided for in paragraph 4(a)(i) of the Policy is accordingly satisfied.

B. Rights or Legitimate Interests

There is no evidence that shows the Respondent is commonly known by the name "arkemagroupus". The

Respondent is not affiliated with the Complainant or authorized or licensed to use the Complainant's ARKEMA trademark.

According to prior UDRP decisions, it should be sufficient that the complainant shows *prima facie* that the respondent lacks rights or legitimate interests in the disputed domain name in order to shift the burden of production to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#). Since the Respondent did not reply to the Complainant's contentions in this proceeding, the Panel finds on the available record that the Complainant has established an un rebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In addition, the Panel finds that the disputed domain name, which incorporates the Complainant's trademark with the addition of the terms "group" and "us", carries a risk of implied affiliation with the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

The above requirement provided for in paragraph 4(a)(ii) of the Policy is accordingly satisfied.

C. Registered and Used in Bad Faith

In consideration of the size of the Complainant's business, popularity of the Complainant's ARKEMA trademark in the world and uniqueness of the term "arkema", it is highly unlikely that the Respondent would not have known of the Complainant's right in the ARKEMA trademark at the time of registration of the disputed domain name. Therefore, it is found that the Respondent registered the disputed domain name in bad faith.

With regard to the bad faith use, while the disputed domain name does not resolve to an active website, the non-use of the disputed domain name should not prevent a finding of bad faith use. See section 3.3 of the [WIPO Overview 3.0](#). Further, the Panel cannot deny the possibility that the disputed domain name would be configured for use with email servers and Internet users would be cheated by emails. In addition, since the Respondent did not provide any evidence of good faith use of the disputed domain name at all, the Panel determines that the disputed domain name is being used in bad faith.

The above requirement provided for in paragraph 4(a)(iii) of the Policy is accordingly satisfied.

In conclusion, all three cumulative requirements as provided for in paragraph 4(a) of the Policy are determined to be 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 <arkemagroupus.com> be transferred to the Complainant.

/Masato Dogauchi/

Masato Dogauchi

Sole Panelist

Date: June 21, 2023