

ADMINISTRATIVE PANEL DECISION

Archer-Daniels-Midland Company v. Andrew Mccubbins
Case No. D2023-4046

1. The Parties

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

The Respondent is Andrew Mccubbins, United States.

2. The Domain Name and Registrar

The disputed domain name <admventuresinc.com> 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 September 27, 2023. On September 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 28, 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 (“Registration Private, Domains By Proxy, LLC”) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 28, 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 October 3, 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 October 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 27, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on November 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

The Complainant was founded in 1902 and specializes in human and animal nutrition. It has used the ADM mark in connection with its business since around 1923. It has 800 facilities and over 38,000 employees worldwide, and in 2022, its worldwide net sales were USD101 billion. It owns trademark registrations for the ADM mark in a number of countries, including the United States Trademark Registration Number 1,386,430 registered on March 18, 1986, and the United States Trademark Registration Number 2,766,613 registered on September 23, 2003.

The Respondent appears to be an individual with an address in the United States.

The disputed domain name was registered on October 2, 2007, and resolves to a domain hosting page and was apparently used to create an email address in a fraudulent job scam in which offers of employment were made to unsuspecting job applicants.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the ADM trademark in which the Complainant has rights. Specifically, the Complainant contends that the disputed domain name contains the ADM mark in its entirety, and that the additional term "ventures" and "inc" do not negate confusing similarity with the ADM mark.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. Further, the Complainant states that the disputed domain name was used in furtherance of an attempted fraud. Specifically, the Complainant contends that the Respondent posed as a recruiter and posted an ad for a non-existent job at a company called "ADM Ventures" on an employment search website. An individual submitted a resume in response to the ad, and received a response from an email address generated by the disputed domain name – "[.]@admventuresinc.com" – asking the individual to join a Microsoft Teams call with a HR manager. The "HR manager" offered the individual a position at "ADM Ventures" and stated that he would send the individual a check to purchase office equipment. Further communications ceased when the individual raised questions about the legitimacy of the position. The individual then alerted the Complainant of these communications. The Complainant contends that such use of the disputed domain name cannot infer rights or legitimate interests on a respondent.

Finally, the Complainant contends that the disputed domain name was registered and used in bad faith. The Complainant contends that given the fame of the ADM mark, the Respondent was certainly aware of the Complainant and its mark when registering the disputed domain name. In fact, the Complainant states that the Complainant uses the terms "ADM Ventures" for its venture investing division, so it is unlikely that the additional terms "ventures" and "inc" were selected at random. Rather, the Complainant contends that the terms were selected in order to give the appearance of association with the Complainant and ADM Ventures. Further, the Complainant contends that the Respondent used the disputed domain name to impersonate the Complainant, collect personally identifiable information, and perpetuate fraudulent schemes, which all constitute use in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademark ADM. As for the disputed domain name, it consists of "adm" combined with "venturesinc". According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7, a domain name is considered confusingly similar to a trademark if it "incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name". In this regard, the Complainant's mark is readily recognizable within the disputed domain name, and the additional terms do not prevent a finding of confusing similarity. ([WIPO Overview 3.0](#), section 1.8). Therefore, the disputed domain name is confusingly similar to the Complainant trademark.

For the reasons mentioned above, the Panel finds that the first element has been established.

B. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no substantive Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Further, the Complainant demonstrates that the Respondent used the disputed domain name to in furtherance of fraud, and the use of a domain name for illegal activity can never confer rights or legitimate interests on the Respondent. ([WIPO Overview 3.0](#), section 2.13.1).

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is sufficient evidence to find bad faith in this case.

First and foremost, the Respondent was surely aware of the Complainant and its mark when registering the disputed domain name. "ADM Ventures" is the venture capital arm of the Complainant with strong online presence, and it would be quite a coincidence for the Respondent to have registered the disputed domain name simply by chance. Further, even if the Respondent was not aware of the Complainant and its mark, a simple Google search would have shown numerous results of both.

The disputed domain name resolves to a domain hosting site, and there is no evidence of use of the disputed domain name to host a website. However, prior panels have held that the use of a domain name for purposes other than to host a website – for instance, sending an email – may constitute bad faith. Here, the Respondent used the email address generated by the disputed domain name to deceive an unsuspecting job-seeker into believing that the Respondent was the Complainant offering an actual job in order to obtain confidential personal information and to potentially solicit payment on fraudulent invoices. This constitutes bad faith use under the Policy. ([WIPO Overview 3.0](#), section 3.4).

For the reasons given above, the Panel finds that the third element has been established.

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 <admventuresinc.com> be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: November 23, 2023