

ADMINISTRATIVE PANEL DECISION

Arm Limited v. Privacy Service Provided by Withheld for Privacy ehf /
Nhlán Lux

Case No. D2022-2551

1. The Parties

The Complainant is Arm Limited, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Nhlán Lux ,
United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <arm-holding.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 13, 2022. On July 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 13, 2022, the Registrar transmitted by email to the Center its verification response 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 July 15, 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 July 15, 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 July 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 9, 2022.

The Center appointed Angelica Lodigiani as the sole panelist in this matter on August 18, 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 a UK company incorporated in 1990 and active in the field of the manufacture and sale of electronic products and software and the provision of consultancy services in this field. The Complainant operates in 19 countries worldwide and employs over 6,000 people. The Complainant has over 2,000 partners and in total, the Complainant's products power over 225 billion devices, reaching 70% of the global population.

The Complainant is the owner of numerous ARM registered trademarks, including the following:

- ARM, United Kingdom registration No. 2000006, registered on October 31, 1994, for goods and services in classes 9, 16 and 42;
- ARM, EU registration No. 001112986, registered on June 8, 2000, for goods and services in classes 9 and 42;
- ARM, United States registration No. 2332930, registered on March 21, 2000, for goods in class 9.

The Complainant also operates the website "www.arm.com".

The disputed domain name was registered on June 20, 2022, and is being used in connection with a parking page containing pay-per-click links. Furthermore, the disputed domain name is configured with MX records and has been used to send emails, under the name of the Complainant's CEO, to a Complainant's partner requesting it to wire transfer an amount of money to one of the Complainant's vendors under the promise to reimburse the payment in a few days.

5. Parties' Contentions

A. Complainant

According to the Complainant, the disputed domain name is confusingly similar to the Complainant's trademark as it fully includes the Complainant's trademark ARM. Furthermore, the term "holding", which is also part of the disputed domain name, does not have an impact on the recognizability of the Complainant's trademark within the disputed domain name.

The Complainant further contends that the Respondent lacks rights or legitimate interests in the disputed domain name as the Respondent is not a licensee of the Complainant, and the Complainant has never authorized the Respondent to reflect its trademark in the disputed domain name. Moreover, according to some Internet searches made by the Complainant, the Respondent does not own any trademark consisting of, or containing the terms "arm" or "arm holding" and does not appear to trade under these names. Therefore, to the Complainant's best knowledge, the Respondent is not commonly known by the disputed domain name or a name corresponding to the disputed domain name. Finally, the fact that the disputed domain name has been used in connection with some phishing activities and a parking page containing pay-per-click links, indicates that the Respondent is not using the disputed domain name in a legitimate, noncommercial or fair manner.

Lastly, the Complainant maintains that the disputed domain name has been registered in bad faith due to its confusing similarity with the Complainant's trademark, which inevitably misleads Internet users as to the true

origin of the disputed domain name or endorsement of the same by the Complainant. Furthermore, the disputed domain name is being used in bad faith, in view of the phishing and misleading emails sent by the Respondent under the disputed domain name and the pay-per-click links displayed on the parking page associated with the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has shown that it owns registered rights over the trademark ARM that long predate the date of creation of the disputed domain name. The Panel agrees that the disputed domain name is confusingly similar to the Complainant's trademark in view of the fact that it fully reproduces said trademark, which is fully recognizable within the disputed domain name. Moreover, the additional portion of the disputed domain name "-holding" is not such as to prevent confusing similarity. According to Section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), 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".

Therefore, the Panel concludes that the first requirement under the Policy is met.

B. Rights or Legitimate Interests

While the overall burden of proof rests with the complainant, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is often primarily within the knowledge of the respondent. As such, where a complainant makes a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

In the case at issue, the Panel finds that the Respondent is not authorized to register and use a domain name confusingly similar to the Complainant's trademark, and that the Respondent does not appear to have been commonly known by the name "arm-holding.com". The disputed domain name has been used to send emails under the name of the Complainant's CEO, to a partner of the Complainant asking for the payment, on the Complainant's behalf, of a given amount of money to one of the Complainant's vendors. In the same email, the alleged Complainant confirmed the reimbursement of the paid amount of money within a few days.

Therefore, the Respondent is falsely impersonating an officer of the Complainant to mislead one of the Complainant's partners in an attempt to extort money out of it. This kind of fraudulent use, which falls afoul into the category of "phishing", does not amount to a legitimate fair use of the disputed domain name, or to a *bona fide* offering of goods and services.

Moreover, the disputed domain name has been used to host a parked page comprising pay-per-click links, which presumably generate and income for the Respondent. Also, this use does not amount to a *bona fide* offering of goods or services, as such links compete with, or capitalize on, the Complainant's mark and mislead Internet users.

In view of the above, the Panel finds that the Complainant has discharged its burden of proof that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The burden of production now shifts to the Respondent to demonstrate that it owns rights or legitimate interests in the disputed domain name. The Respondent has omitted to file a Response, and therefore has waived its right

to contest the Complainant's allegations.

The Panel is therefore satisfied that the second condition under the Policy is met.

C. Registered and Used in Bad Faith

The Panel considers that there are several reasons to conclude that the Respondent has registered and used the disputed domain name in bad faith.

First, it is clear that the Respondent was well aware of the Complainant and of its ARM trademark at the time it decided to register the disputed domain name. Indeed, the disputed domain name fully includes the Complainant's ARM trademark, which is inherently distinctive and clearly recognizable within the disputed domain name. Furthermore, the addition of the term "holding" to the disputed domain name is evidence of the fact that the Respondent wanted to create an immediate association between the disputed domain name and the Complainant when it registered the disputed domain name. In fact, due to the inclusion of the term "holding", it is very unlikely that an Internet user would associate the term "arm" with its main dictionary definition (that of a body part of an individual). Rather, it is much more likely that when faced with the disputed domain name, an Internet user would consider it related to a holding company, and therefore to a company's name and/or trademark, such as that of the Complainant.

In addition, the Respondent has configured the MX records of the disputed domain name, to send and receive email messages. Thus, the Respondent has falsely impersonated the Complainant and used the disputed domain name to send phishing emails with the aim of obtaining a profit by fraudulent means. In addition, the Respondent has used the disputed domain name to access a parking page containing pay-per-click links. The Respondent is probably deriving an income from each click on the sponsored links appearing on the parking page. By registering and using the disputed domain name, the Respondent has therefore capitalized on the Complainant and on its distinctive trademark for its own commercial gain. Both these uses cannot qualify as use of the disputed domain name in good faith.

In light of the foregoing, the Panel concludes that the Respondent has registered and has been using the disputed domain name in bad faith. Therefore, the Panel is satisfied that also the third and last condition under the Policy is met.

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, <arm-holding.com> be transferred to the Complainant.

/Angelica Lodigiani/

Angelica Lodigiani

Sole Panelist

Date: September 1, 2022