

## **ADMINISTRATIVE PANEL DECISION**

### **Archer-Daniels-Midland Company v. Shao Xu Feng Shao Xu Feng Case No. D2023-2280**

#### **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 Shao Xu Feng Shao Xu Feng, Malaysia.

#### **2. The Domain Name and Registrar**

The disputed domain name <admc2cea.com> is registered with Web Commerce Communications Limited dba WebNic.cc (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 24, 2023 in relation to the disputed domain name and an additional domain name. On May 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 25, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name and the additional domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 26, 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 amended Complaint along with a request to withdraw the additional domain name from the proceeding on May 26, 2023. On May 30, 2023, the Center notified the parties of the requested partial withdrawal.

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 May 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 23, 2023.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on June 28, 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 is a company incorporated in the United States, founded in 1902. The Complainant is active in a variety of sectors, including financial, investment, brokerage and business management services. The Complainant claims to provide services in 200 countries, own over 800 facilities and employ over 38,000 people.

Amongst others, the Complainant owns several active trademarks, including:

- United States word trademark ADM No. 2307492 registered on January 11, 2000, in classes 35, 36, 40, and 42; and
- United States word trademark ADM No. 2766613 registered on September 23, 2003, in classes 16, 35, 36, and 42.

The Complainant claims that its ADM trademarks are well-known and famous due to the promotion and continued global use of this name and brand. The Complainant claims to have built up international goodwill and reliability in the ADM trademark among its consumers.

The Complainant operates the domain name <adm.com>, registered on October 12, 1994.

The disputed domain name <admc2cea.com> was registered by the Respondent on February 26, 2023. At the time of writing the complaint, the disputed domain name led to the authentication page for an investment and trading app incorporating the Complainant's trademark.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain name is confusingly similar to its ADM trademarks, as the disputed domain name fully incorporates its well-known trademarks. Additionally, the addition of the characters "C2CEA" does not suffice to distinguish the disputed domain name from the Complainant's trademarks and is rather evocative of typo squatting, especially given the reputation of the Complainant's trademarks.

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as the Respondent is not commonly known by the disputed domain name and has not been licensed or permitted by the Complainant to use its ADM trademarks. In addition, the Complainant contends that there can be no legitimate interests as the Respondent is using the disputed domain name to present fraudulent financial services.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith as they prominently and illicitly display its ADM trademarks on the disputed domain name for the sole purpose of portraying ADM as the source of a fraudulent mobile app. The usurpation of identity of the Complainant for fraudulent purposes is a clear indication that the disputed domain name has been registered and used in bad faith.

## B. Respondent

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

## 6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (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

Pursuant to paragraph 4(a)(i) of the UDRP, the Complainant must demonstrate that the disputed domain name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

On the basis of the evidence presented, it is established that the Complainant owns several ADM trademarks. The disputed domain name reproduces the Complainant's ADM trademarks, with the addition of "c2cea". Previous UDRP panels have consistently held that, in circumstances where the disputed domain name incorporates the entirety of a trademark or its dominant feature is recognizable, the disputed domain name will be considered confusingly similar to the trademark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7; *Fondation Le Corbusier v. Monsieur Bernard Weber, Madame Heidi Weber*, WIPO Case No. [D2003-0251](#); and *Bayerische Motoren Werke AG ("BMW") v. Registration Private, Domains By Proxy, LLC / Armands Piebalgs*, WIPO Case No. [D2017-0156](#)). This finding of confusing similarity is not prevented by the addition of other terms ([WIPO Overview 3.0](#), section 1.8; *Intesa Sanpaolo S.p.A. v. Rampe Purda*, WIPO Case No. [D2010-1116](#); and *Société des Bains de Mer et du Cercle des Etrangers à Monaco v. Mark Bolet*, WIPO Case No. [D2006-1245](#)).

Additionally, it is well-established that the generic Top-Level Domain ".com" is typically not taken into account for the purpose of assessing confusing similarity under the Policy, as it is merely a standard registration requirement ([WIPO Overview 3.0](#), section 1.11).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

### B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, evidence of the Respondent's rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(a)(ii) may be established, in particular, by any of the following circumstances:

- (i) prior to becoming aware of the dispute, the Respondent has used the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services, or made demonstrable preparations to do so;
- (ii) the Respondent is commonly known by the disputed domain name in question, even without having acquired trademark or service mark rights; or

- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name without intent to misleadingly divert consumers for profit by creating confusion or to tarnish the trademark or service mark at issue.

Where the Complainant establishes *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production on this element is on the Respondent and it is up to the Respondent to provide relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent does not provide such relevant evidence, the Complainant is deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

Where there are clear indications of bad faith suggesting that there may be no rights or legitimate interests of the Respondent, the Panel may decide that the second and third elements of the Policy are useful to evaluate together ([WIPO Overview 3.0](#), section 2.15).

In this case, the Complainant has provided evidence that the disputed domain name is abusive of their trademark right, since it is being used in connection with a claimed fraudulent scheme to impersonate the Complainant. In particular, it seems likely that the Respondent is using the disputed domain name in furtherance of an illicit scheme to deceive and obtain money and private information from visitors of the disputed domain name, clearly attempting to mislead visitors into believing the fraudulent investment application is associated with the Complainant. The Panel finds that such use can never confer rights or legitimate interests on the Respondent ([WIPO Overview 3.0](#), section 2.13).

The Complainant has established that the Respondent does not have rights or legitimate interests in the disputed domain name. The Panel concludes that the second condition of paragraph (4)(a) of the Policy is satisfied.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides circumstances, in particular but without limitation, that shall be evidence of a disputed domain name being registered and used in bad faith – including the circumstance that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the disputed domain name, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name or location or of a product or service on the disputed domain name.

In addition to the circumstances provided in paragraph 4(b) of the Policy, the Panel may also consider special circumstances such as (i) the nature of the domain name (*e.g.*, a typo of a widely known mark, or a domain name incorporating the complainant's mark plus an additional term such as a descriptive or geographic term), (ii) a clear lack of rights or legitimate interests coupled with the absence of a credible explanation for the respondent's choice of domain name, or (iii) other *indicia* generally suggesting that the respondent has targeted the complainant in some way ([WIPO Overview 3.0](#), section 3.2.1).

Furthermore, bad faith is demonstrated where the Respondent registered the disputed domain name with the aim of using it for unlawful purposes, taking advantage of attempts to solicit commercial transactions with third parties while impersonating the Complainant, creating a likelihood of confusion and aiming to take undue advantage of the Complainant's reputation and goodwill ([WIPO Overview 3.0](#), section 3.4; *Minerva S.A. v. TT Host*, WIPO Case No. [D2016-0384](#); and *BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#)).

The disputed domain name was registered on February 26, 2023, which is subsequent to the registration of the Complainant's ADM trademarks in 1994 and 2000.

In this case, the Respondent has registered and used the disputed domain name to impersonate the Complainant by deceiving and misleading the public to believe they are using a legitimate investment and trading service and mobile application associated with the services with the Complainant, when in fact the

investment and trading app appears to be fraudulent and part of an illegal scheme. Seeing as the Respondent used the disputed domain name for fraudulent purposes and has not provided a Response, the disputed domain name has been acquired and used in bad faith (*The Prudential Assurance Company Limited v. Prudential Securities Limited*, WIPO Case No. [D2009-1561](#)).

For the reasons set out above, the Panel considers that the requirement of registration and bad faith use of the disputed domain name set out in paragraph 4(a)(iii) of the Policy is 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, <admc2cea.com> be transferred to the Complainant.

*/Benoit Van Asbroeck/*

**Benoit Van Asbroeck**

Sole Panelist

Date: July 12, 2023