

ADMINISTRATIVE PANEL DECISION

Archer-Daniels-Midland Company v. Donna Winslow
Case No. D2023-4426

1. The Parties

The Complainant is Archer-Daniels-Midland Company, United States of America (the “United States”), represented by Neal, Gerber & Eisenberg, United States.

The Respondent is Donna Winslow, United States.

2. The Domain Name and Registrar

The disputed domain name <admonline.net> (the “Disputed Domain Name”) is registered with HOSTINGER Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 25, 2023. On October 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 30, 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 on November 2, 2023.

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 November 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 28, 2023.

The Center appointed Colin T. O’Brien as the sole panelist in this matter on December 4, 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 widely known by its initials as ADM. The Complainant was founded in 1902 and offers services in 200 countries, owns more than 800 facilities worldwide, employs over 38,000 people. In 2022, worldwide net sales by the Complainant were USD 101 billion. The Complainant was originally a food and ingredients company but currently also provides a plethora of other services including printing and publishing; financial and business management services; fuel production; logistics services and research and development services.

The Complainant owns numerous trademark registrations for ADM in the United States for a wide range of goods and services. See for example United States Registration No. 1386430, registered on March 18, 1986. These trademarks will be referred to as the “ADM mark” in this decision.

The Complainant’s primary website which can be accessed globally can be found at “www.adm.com”.

The Disputed Domain Name was registered on September 8, 2023. It does not resolve to an active website. The filed evidence establishes that the Disputed Domain Name has been used to send fraudulent emails to customers of the Complainant.

5. Parties’ Contentions

A. Complainant

The Disputed Domain Name is confusingly similar to the ADM mark as it completely incorporates the ADM mark. The “online” portion of the Disputed Domain Name cannot negate the confusing similarity with the ADM mark. Given the Complainant’s legitimate and active use of the ADM mark for its goods and services, as well as the Complainant’s global reach and multi-national career placements, including Asia, Europe, North America, and Latin America, and the experienced uptick in fraudulent career postings claiming to be hiring for the Complainant, it is highly unlikely that the “online” portion of the Disputed Domain Name was selected at random.

The Respondent has not been commonly known, either as a business, an individual, or an organization, by the Disputed Domain Name. Any claimed rights or legitimate interests in the Disputed Domain Name is negated by the Respondent’s impersonation of the Complainant recruiters and hiring personnel and attempt to harvest personal information and fraudulently mislead victims. Additionally, upon information and belief, the Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name without intent for commercial gain.

The Respondent is using the Complainant’s ADM mark, name, and robust global online presence in bad faith via <admonline.net> and associated fraudulent email address to impersonate or spoof the Complainant, the Complainant’s employment opportunities, and the public for fraudulent purposes. The Respondent is using the ADM mark and name in <admonline.net>, has deceived individuals into applying for a fake job with the Complainant, and has misled applicants into believing that they received an interview with the Complainant.

The Respondent is attempting to intentionally trade on the goodwill of the Complainant’s famous name, marks, business reputation, and online presence via <admonline.net>, and is in violation of the Complainant’s prior rights. Simply put, the facts of this case can lead to no other conclusion than concluding that the Respondent is not only using <admonline.net> in bad faith but registered it in bad faith as well. Given the worldwide fame of the ADM mark and the Respondent’s use of the Complainant’s intellectual

property rights, the Respondent was certainly aware of the Complainant's rights in the ADM mark and company name prior to registering <admonline.net>. Therefore, the Respondent registered and used the Disputed Domain Name and above-mentioned fraudulent email address and written materials, 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 it owns registered trademark rights in the ADM mark. The addition of "online" does not prevent the Complainant's trademark from being recognizable in the Disputed Domain Name. The generic Top-Level Domain ("gTLD") ".net" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), sections 1.8 and 1.11.1, and *F. Hoffmann-La Roche AG v. Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org / Conan Corrigan*, WIPO Case No. [D2015-2316](#).

Accordingly, the Disputed Domain Name is confusingly similar to a mark in which the Complainant has rights. The Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has presented a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name and has not been commonly known by the Disputed Domain Name. The fact that the Respondent registered the Disputed Domain Name decades after the Complainant had begun using its ADM mark indicates that the Respondent sought to piggyback on the mark for illegitimate reasons.

After a complainant has made a *prima facie* case, the burden of production shifts to a respondent to present evidence demonstrating rights or legitimate interests in the domain name. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

The Respondent has provided no evidence of any rights or legitimate interests in the Disputed Domain Name. Moreover, the Disputed Domain Name incorporates the Complainant's trademark in its entirety along with the term "online", potentially conveying to unsuspecting Internet users the false belief that any email connected to the Disputed Domain Name is associated with the Complainant. Such a risk of affiliation or association with the Complainant and its mark cannot constitute fair use.

In the absence of any evidence rebutting the Complainant's *prima facie* case indicating the Respondent's lack of rights or legitimate interests in respect of the Disputed Domain Name, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Disputed Domain Name was registered years after the Complainant first registered and used its ADM mark. The evidence provided by the Complainant with respect to the extent of use and fame of its ADM mark combined with the absence of any evidence provided by the Respondent to the contrary, is sufficient to satisfy the Panel that, at the time the Disputed Domain Name was registered, the Respondent undoubtedly knew of the Complainant's globally known ADM mark, and knew it had no rights or legitimate interests in the Disputed Domain Name.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

There is *prima facie* no legitimate reason for the Respondent to have registered the Disputed Domain Name containing the entirety of the ADM mark. While the Disputed Domain Name does not currently resolve to an active website there is ample evidence of bad faith use on the part of the Respondent specifically using it to engage in a sophisticated phishing attack on the secure potentially sensitive information from individuals hoping to be employed by the Complainant. UDRP panels have found that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. See section 3.4 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) of the Policy.

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 <admonline.net> be transferred to the Complainant.

/Colin T. O'Brien/

Colin T. O'Brien

Sole Panelist

Date: December 14, 2023