

ADMINISTRATIVE PANEL DECISION

Arm Limited v. sanders

Case No. D2023-5043

1. The Parties

Complainant is Arm Limited, United Kingdom (“UK”), represented by Demys Limited, UK.

Respondent is sanders, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <keiluvision.com> is registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 4, 2023. On December 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 5, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to Complainant on December 6, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 6, 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 Respondent of the Complaint, and the proceedings commenced on December 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 4, 2024.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on January 17, 2024. 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

Complainant is a company organized under the laws of the UK that is active in the computer industry, inter alia, by designing electronic products as well as software tools, two of which are branded “Keil” and “Uvision”.

Complainant has evidenced to be the registered owner of various trademarks relating to its KEIL and μ VISION/UVISION brands, including, but not limited, to the following:

- word mark KEIL, United States Patent and Trademark Office (“USPTO”), registration number: 3776674, registration date: April 20, 2010, status: active;
- word mark μ VISION, USPTO, registration number: 2893005, registration date: October 12, 2004, status: active.

Moreover, Complainant has demonstrated to own the domain name <arm.com>, which resolves to Complainant’s main website at “www.arm.com”, promoting Complainant’s products and related services in the computer industry.

Respondent, according to the disclosed Whois information for the disputed domain name, is located in the Russian Federation. The disputed domain name was registered on March 28, 2023, and resolves to a website at “www.keiluvision.com”, which prominently features Complainant’s company name and logo “arm” in a similar version together with Complainant’s KEIL trademark and is made up of technical information relating exclusively to Complainant’s μ VISION trademark and related software tool, thereby including a footer with a copyright notice suggesting that the website is owned by Complainant. Besides, the disputed domain name is configured with Mail Exchange (“MX”) records on its zone file, allowing the disputed domain name to be used for email services.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name. Notably, Complainant contends to be one of the world’s leading semiconductor IP companies with roots going back to November 1990, nowadays employing over 6,000 staff operating from offices in more than 19 territories worldwide.

Complainant submits that the disputed domain name is at least confusingly similar to Complainant’s KEIL and μ VISION trademarks, as it combines both of them. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent is not a licensee of Complainant and has not received any permission or consent to use Complainant’s trademarks or company name, (2) Complainant has found no evidence that Respondent owns any trademarks incorporating the terms “keil” or “uvision” or “ μ vision”, (3) the disputed domain name relates exclusively to Complainant and its KEIL and μ VISION trademarks and so carries a risk of implied affiliation with Complainant, and (4) Respondent operates a website under the disputed domain name that prominently uses Complainant’s logo “arm” as well as its product name “ μ Vision” and a misleading copyright notice, thereby impersonating Complainant and attempting to mislead Internet users into believing that the website

under the disputed domain name is operated by Complainant. Finally, Complainant argues that Respondent is using the disputed domain name in bad faith since (1) the disputed domain name is confusing Internet users in and of itself, and (2) the disputed domain name is configured with MX records and is therefore capable of email communication which allows to conclude that anyone receiving an email originating from the disputed domain name would reasonably assume that it was sent from Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between Complainant's KEIL and μVISION trademarks and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Complainant has shown rights in respect of its KEIL and μVISION trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of Complainant's KEIL trademark is reproduced within the disputed domain name, while Complainant's μVISION trademark is still recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to those trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel, therefore, finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or

legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

In particular, Respondent has neither been granted a license nor has it been otherwise authorized by Complainant to use any of its KEIL and μ VISION trademarks, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name, and Respondent does not appear to have any trademark rights associated with the terms "Keil" and/or "UVision" or " μ Vision" on its own.

Finally, the disputed domain name resolves to a website at "www.keiluvision.com", which prominently features Complainant's company name and logo "arm" in a similar version together with Complainant's KEIL trademark and is made up of technical information relating exclusively to Complainant's μ VISION trademark and related software tool, thereby including a footer with a copyright notice suggesting that the website is owned by Complainant without any authorization to do so. Such use of the disputed domain name, therefore, neither qualifies as bona fide nor as legitimate noncommercial or fair use within the meaning of paragraph 4(c) of the Policy. In this context, panels have long held that the use of a domain name for illegal activity (here: impersonating/passing off Complainant) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel, therefore, finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Finally, the Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The circumstances to this case leave no doubt that Respondent was fully aware of Complainant's computer business and its rights in the KEIL and μ VISION trademarks when registering the disputed domain name and that the latter clearly is directed thereto. Moreover, using the disputed domain name to run a website at "www.keiluvision.com", which prominently features Complainant's company name and logo "arm" in a similar version together with Complainant's KEIL trademark and which is made up of technical information relating exclusively to Complainant's μ VISION trademark and related software tool, thereby including a footer with a copyright notice suggesting that the website is owned by Complainant without any authorization to do so, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant's KEIL and μ VISION trademarks as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. Also, panels have long held that the use of a domain name for illegal activity (here: impersonating/passing off Complainant) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel, therefore, finds that Complainant has established the third element of the Policy, too.

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 <keiluvision.com> be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: January 31, 2024