

ADMINISTRATIVE PANEL DECISION

Arkema France v. Faisal Murshid, mcrolink
Case No. D2023-5050

1. The Parties

The Complainant is Arkema France, France, represented by Fross Zelnick Lehrman & Zissu, PC, United States of America (“United States”).

The Respondent is Faisal Murshid, mcrolink, Yemen.

2. The Domain Name and Registrar

The disputed domain name <arkemadent.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 4, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 5, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy Service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 6, 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 December 7, 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 December 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 12, 2024.

The Center appointed Ian Lowe as the sole panelist in this matter on January 18, 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

The Complainant is a French company formed in 2004 that now has offices in 55 countries, employing over 20,000 employees. It operates 136 industrial facilities in Europe, North America, and Asia and has sales subsidiaries in every region of the world, including five such locations in Turkey. Arkema is organized into three business segments: High Performance Materials, Industrial Specialties, and Coating Solutions. Arkema makes and sells a wide variety of products including fluorochemicals, technical polymers, thiochemicals, functional additives, industrial coatings, acrylics, hydrogen peroxide, organic peroxides, and molecular sieves.

The Complainant is the proprietor of a number of registered trademarks around the world for ARKEMA, including France trademark number 3048573 for ARKEMA registered on August 28, 2000; International trademark number 847865 for ARKEMA registered on November 30, 2004 designating over 50 countries including Egypt, Turkey, and Iran (Islamic Republic of); and United States trademark number 3082057 for ARKEMA registered on April 18, 2006.

The Complainant operates a website at “www.arkema.com” promoting its products and services.

The Domain Name was registered on October 17, 2023, and resolves to a webpage stating that “This web site has just been created from DotNetPanel and it is still under construction.” The Domain Name is configured for use with email.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

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

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 the complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has uncontested rights in the ARKEMA trademark, both by virtue of its trademark registrations and as a result of the goodwill and reputation acquired through use by the Complainant over a number of years. Ignoring the generic Top-Level Domain ("gTLD") ".com", the Domain Name comprises the entirety of the ARKEMA mark together with the word "dent". Although the addition of this dictionary word may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the Complainant's mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available evidence, the Panel finds that the Domain Name is confusingly similar to a mark in which the Complainant has rights and that 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 the 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. Accordingly, 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 evidence, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise. Furthermore, the Respondent has not made any use of the Domain Name that might give rise to such rights or interests.

Accordingly, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Complainant's ARKEMA mark (the "Mark") has no apparent meaning, and in the Panel's view could be taken only to be a reference to the Complainant. In light of the nature of the Domain Name, comprising as it does the entirety of the Mark together with the dictionary term "dent", the Panel is satisfied on the balance of probabilities that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name, and the natural inference is that it did so with the intention of using the Domain Name to deceive Internet users into believing that it was registered by or associated with the Complainant for legitimate purposes related to the Complainant's activities.

In this connection, the Panel notes that the Domain Name has been configured for use with email and that this gives rise to the risk of confusion or deception in the use of emails using the Domain Name. In addition, the Panel cannot conceive of a legitimate use to which the Respondent could put the Domain Name.

The obvious inference is that the Respondent registered the Domain Name for commercial gain with a view to taking unfair advantage of the Complainant's rights in the Mark.

Despite the fact that currently there appears to be no active use of the Domain Name, Panels have found that the non-use of a domain name (including, as here, a "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available evidence, the Panel finds the non-use of the Domain Name does not prevent a finding of bad faith in the circumstances of this case. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available evidence, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the Domain Name, and finds that in the circumstances of this case the passive holding of the Domain Name does not prevent a finding of bad faith under the Policy. In this case, the Complainant's mark is distinctive; the Respondent has failed to respond to the Complaint; and the Panel cannot conceive of any good faith use to which the Respondent could put the Domain Name.

The Panel finds that the Complainant has established the third element 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 Domain Name <arkemadent.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: January 30, 2024