

ADMINISTRATIVE PANEL DECISION

Archer-Daniels-Midland Company v. Matarr Njjie
Case No. D2023-5125

1. The Parties

Complainant is Archer-Daniels-Midland Company, United States of America (“United States” or “US”), represented by Innis Law Group LLC, United States.

Respondent is Matarr Njjie, United States.

2. The Domain Name and Registrar

The disputed domain name <adm-agrics.com> 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 December 7, 2023. On December 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 11, 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 (Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to Complainant on December 11, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. On the same date, Complainant filed an amendment to the Complaint.

The Center verified that the Complaint, together with the amendment to the 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 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 3, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 8, 2024.

The Center appointed Jeffrey M. Samuels as the sole panelist in this matter on January 15, 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, Archer-Daniels-Midland Co., was founded in 1902, does business in 200 countries, owns more than 800 facilities around the world, employs over 38,000 people, and has become one of the world's most premier agribusinesses. In 2022, worldwide net sales were USD 101 billion. While originally a food and ingredients company, Complainant's business areas now include printing and publishing, financial and business management services, and fuel production, logistics services and research and development services.

Complainant is known by its initials ADM and owns several trademark registrations in the United States and around the world for the ADM mark. Such registrations include US trademark Registration No. 1386430, registered on March 18, 1986; US trademark Registration No. 2766613, registered on September 23, 2003; and US trademark Registration No. 2307492, registered on January 11, 2000.

Complainant also owns the domain name <adm.com>, which allows customers to conduct business with Complainant from anywhere in the world. Complainant uses the website found at "www.adm-agri.co.uk" as a platform to connect its business and supply-chain to farmers and other customers throughout the United Kingdom.

The disputed domain name was registered on October 10, 2023. At the moment of this decision, the disputed domain name does not resolve to any active website. According to the evidence provided in the Complaint, Respondent created at least one email address derived from the disputed domain name which misappropriated the identity of a legitimate employee of the Complainant. The Complainant's employee is the senior vice president and president of the Complainant's Agricultural Services and Oilseeds business unit. Under the guise of the Complainant's employee, via the email address created with the disputed domain name, Respondent contacted at least two different companies with the intent to defraud those companies and their employees by attempting to place large fraudulent orders of products.

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.

Complainant first contends that the disputed domain name is confusingly similar to its ADM mark. It asserts that the disputed domain name completely incorporates the ADM mark and that the inclusion of the term "agrics" in the disputed domain name is a direct reference to the Complainant's agricultural business.

Complainant maintains that Respondent has no rights or legitimate interests in the disputed domain name. According to Complainant, [a]ny legitimate rights or interests in the disputed domain name are negated by Respondent's use of the disputed domain to create a fraudulent impersonation of a legitimate ADM employee and further deceive third-party businesses into believing they were communicating with the real ADM agent...." Thus, Complainant asserts, Respondent cannot be found to be using the disputed domain name in connection with a *bona fide* offering of goods or services or to be making a legitimate noncommercial or fair use of the disputed domain name.

With respect to the issue of bad faith registration and use, Complainant comments as follows:

“It is clear that the Respondent is aiming to intentionally trade on the goodwill of ADM’s fame, trademarks, reputation and online presence through its ADM-AGRICS.COM domain, and is in violation of ADM’s prior rights and international civil and criminal laws. The Respondent undoubtedly used the email address associated with ADM-AGRICS.COM, [...]@adm-agrics.com, to create the belief that their communications came from a legitimate ADM employee. The Respondent’s use of an actual ADM employee name, business location information, trademarks and branding to deceive unsuspecting victims is especially egregious. Simply put, the facts of this case can lead to no other conclusion than concluding that the Respondent is not only using the ADM-AGRICS.COM domain in bad faith but registered it in bad faith as well.”

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

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 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.

Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name, and the ADM mark is clearly recognizable within the disputed domain name. The addition of the term “agrics” in the disputed domain name does not negate a finding of confusing similarity. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel 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.

Panels have held that the use of a domain name for illegal uses can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The evidence in this case clearly establishes that Respondent used the disputed domain name to impersonate an employee of the Complainant to solicit business from two of Complainant's customers.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. More specifically, the evidence supports a determination that Respondent registered the disputed domain name to send fraudulent communications impersonating a legitimate employee of the Complainant. As stated by Complainant, "[t]hese actions clearly indicate the Respondent's intentional and bad faith attempt to create a likelihood of confusion with ADM's famous ADM Marks and trade off the goodwill associated with its ADM Marks and ADM.COM domain." See *Archer-Daniels-Midland Co. v. Name Redacted*, WIPO Case No. [D2016-1618](#).

The Panel finds that 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 disputed domain name <adm-agrics.com> be transferred to Complainant.

/Jeffrey M. Samuels/

Jeffrey M. Samuels

Sole Panelist

Date: January 29, 2024