

ADMINISTRATIVE PANEL DECISION

Archer-Daniels-Midland Company v. Rohit Kinra
Case No. D2024-0413

1. The Parties

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

Respondent is Rohit Kinra, United States.

2. The Domain Name and Registrar

The disputed domain name <admnutrition.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 January 29, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 30, 2024, 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 (Unknown, Privacy service provided by Withheld for privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on February 6, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on February 8, 2024.

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 February 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 4, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 6, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on March 20, 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 alleges as follows:

“Archer-Daniels-Midland Company is widely known by its initials as ADM. Founded in 1902, the corporation now serves 200 countries, owns more than 800 facilities worldwide, employs over 38,000 people, and has become one of the world’s most premier agribusinesses. In 2022, worldwide net sales at ADM were [USD] 101 billion. Due to its promotion and continued global use of its name and brands, ADM has built up international goodwill and reliability in the ADM Mark among its consumers, wherein the ADM Mark is now well-known and famous.”

Complainant cites a number of prior UDRP decisions finding the ADM mark to be well-known.

Complainant holds trademark registrations for ADM (either in word form or stylized) in numerous jurisdictions around the world. For example, Complainant holds United States Patent and Trademark Office Reg. No. 1,386,430 for the word mark ADM, registered on March 18, 1986, in connection with, among other things, “chemicals for industrial use”, “staple foods”, “natural agricultural products”, “processed foods”, and “transportation of agricultural products”, with a 1923 date of first use in commerce.

Complainant’s principal website is at the domain name <adm.com>. Complainant asserts further:

“Similarly, and especially pertinent in the present case, ADM’s animal nutrition business division, ADM Animal Nutrition, Inc., uses the [<admanimalnutrition.com>] website as a platform to connect its business and supply-chain to animal raisers and other consumers, and provide information about its products. ADM Animal Nutrition Inc. provides a wide range of products for animals, including feed products and supplements, for optimal animal health and nutrition.”

The Domain Name was registered on January 9, 2024. The Domain Name is redirected to Complainant’s main website at the domain name <adm.com>. Complainant alleges that this redirection of the Domain Name to Complainant’s website is in aid of a fraudulent scheme.

Specifically, according to Complainant, Respondent has “created at least one email address associated with the domain, which misappropriated the identity of a legitimate ADM employee”.

Complainant alleges:

“Under the guise of [Complainant’s employee] via the fraudulent [...]@ADMNUTRITION.COM email address, on January 12, 2024, the Respondent targeted an IT company as a part of their fraudulent scheme, in which the Respondent falsely claimed ADM needs ‘a change in [its] organization’s technology requirements,’ and expressed interest in placing an order of 356 units of Lenovo ThinkPads.”

“In the email, the Respondent fraudulently identified themselves as [the Complainant’s employee] in the signature, and included the [employee’s] legitimate job title, as well as ADM’s phone number, the actual physical address of ADM’s Chicago office, and ADM’s trademarked logo, in an attempt to further deceive CDW and convey legitimacy of the correspondence. ADM received the attached email from [the IT company], though ADM did not intend to purchase the referenced goods.”

“Furthermore, upon registering the ADMNUTRITION.COM domain, the Respondent deliberately configured the domain settings to automatically redirect any visitors attempting to visit the ADMNUTRITION.COM website to ADM’s company website, ADM.COM. This process of redirecting the ADMNUTRITION.COM website was a part of the Respondent’s fraudulent scheme as a means to make the domain appear legitimately associated with ADM, in the event the recipients of the Respondent’s fraudulent emails visited the website associated with the email domain.”

Complainant annexes to the Complaint the email communications discussed above.

5. Parties’ Contentions

A. Complainant

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

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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

The Panel finds that Complainant holds rights in the trademark ADM through extensive registration and use demonstrated in the record. The Panel finds that the Domain Name is confusingly similar to the ADM mark. The Domain Name entirely incorporates the mark and adds the term “nutrition” – a word associated with some of Complainant’s products sold under the ADM mark. Complainant’s well-known mark is clearly recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name. Respondent has not come forward to dispute Complainant's serious and credible allegations of fraud, or articulate some bona fide basis for registering the Domain Name. On the undisputed record, the Panel concludes that Respondent targeted Complainant's mark to impersonate Complainant and send at least one fraudulent email to one of Complainant's business partners. Such a use of the Domain Name is manifestly illegitimate.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. The Panel incorporates here its discussion above in the "Rights or Legitimate Interests" Section. The Panel finds, on this undisputed record and on a balance of probabilities, that Respondent had Complainant and its marks in mind when registering the Domain Name. This is clear from the fact that the Domain Name is being used to send a bogus email, using an actual Complainant employee's name, to at least one of Complainant's business partners.

Respondent's targeting of Complainant's mark in order to impersonate Complainant for commercial gain falls squarely within the above-quoted Policy paragraph 4(b)(iv), and hence constitutes bad faith registration and use of the Domain Name.

Complainant has established Policy paragraph 4(a)(iii).

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 <admnutrition.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: April 3, 2024