

ADMINISTRATIVE PANEL DECISION

Archer-Daniels-Midland Company v. ADM, ADM
Case No. D2024-0475

1. The Parties

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

The Respondent is ADM, ADM, United States.

2. The Domain Name and Registrar

The disputed domain name <adm-wealth.com> (the “Disputed Domain Name”) is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 1, 2024. On February 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 2, 2024, 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 February 4, 2024, 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 February 28, 2024.

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 February 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 20, 2024.

The Center appointed Peter J. Dernbach as the sole panelist in this matter on March 26, 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

Founded in 1902, the Complainant is a world-renowned premier agribusinesses, serving 200 countries, owning more than 800 facilities worldwide, and employing over 38,000 people. The Complainant is widely known by its initials as “ADM”. Although the Complainant was originally a food and ingredients company, its business areas also now include printing and publishing; financial and business management services; fuel production, including bioethanol and biodiesel; logistics services (agricultural storage and transportation services); and research and development services. The Complainant provides financial services through ADM Investor Services, Inc. (“ADMIS”).

The Complainant owns the following trademarks (collectively the “ADM Trademarks”):

- European Union trademark ADM (word) n. 000913194 registered since February 15, 2001;
- European Union trademark ADM (logo) n. 018195753 registered since August 25, 2020;
- New Zealand trademark ADM (word) n. 296793 registered since September 6, 1999;
- Russian Federation trademark ADM (logo) n. 839125 registered since November 25, 2021;
- United States trademark ADM (word) n. 1386430 registered on March 18, 1986, and first used in 1923.

The Complainant owns the domain names <adm.com> and <admis.com>.

The Disputed Domain Name was registered on December 6, 2023, and previously resolved to a login page, displaying the Complainant’s logo and trademark and requiring personal data to access. The Disputed Domain Name is currently inactive.

The Registrar identifies the Respondent as “ADM, ADM” with an address and telephone number identical to those belonging to the Complainant, which was expressly disavowed by the Complainant.

5. Parties’ Contentions

A. Complainant

The Complainant requests the Panel appointed in this administrative proceeding that the Disputed Domain Names be transferred to the Complainant. The Complainant contends that it has satisfied each of the elements required under paragraph 4(a) of the Policy for the Disputed Domain Name’s transfer, summarized as follows:

- (i) The Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant asserts that it is the owner of the ADM Trademarks, and that its ownership over these marks preceded the date the Respondent registered the Disputed Domain Name. The Complainant also contends that the additional features to the Disputed Domain Name – including “-wealth” and the generic Top-Level Domain (“gTLD”) “.com” cannot distinguish the Disputed Domain Name from the Complainant’s trademark. The only distinctive part of the Disputed Domain Name is “adm”, which is identical to the Complainant’s trademark. Therefore, the Disputed Domain Name is identical or confusingly similar to the Complainant’s registered trademark.

- (ii) The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

The Complainant states that it did not license or authorize the Respondent to use the ADM trademark. In addition, the Complainant expressly disavows the Respondent's use of the Complainant's name, address, and phone number in the registration information disclosed by the Registrar. Furthermore, even though the Disputed Domain Name resolves to an inactive website, screenshots of the previous website to which the Disputed Domain Name resolved to shows an email subscription page, where site users were requested to input their personal information. As such, the Disputed Domain Name was not and is not being used in connection with a bona fide offering of goods and services. The earlier use of the Disputed Domain Name also does not constitute legitimate noncommercial or fair use. Therefore, the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

The Complainant contends that the Respondent registered the Disputed Domain Name using the ADM mark and name, which has become a well-known mark worldwide before the Disputed Domain Name was registered. Given the above, the Complainant asserts that the Respondent registered the Disputed Domain Name in bad faith, with full knowledge of the Complainant's mark.

Furthermore, the Complainant states that although the Disputed Domain Name is currently inactive, it previously resolved to an active website requesting for site user's personal data, which the Complainant asserts was intended to be used to commit fraud. The Complainant therefore contends that in using the Disputed Domain Name, the Respondent's sole intention is to deceive individuals that they are in fact registering or signing into an account with the Complainant. The current non-use of the Disputed Domain Name does not change the Respondent's bad faith considering the reputation of the ADM Trademarks. Therefore, the Complainant contends that the Respondent is using the Disputed Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, to succeed in this administrative proceeding and obtain the requested remedy (in this case, transfer of the Disputed Domain Name), the Complainant must prove that each of the three following elements are present:

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

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established that it is the proprietor of rights in the ADM Trademarks. Based on the available records, the Panel finds that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1).

The Panel finds that the entirety of the ADM Trademarks is reproduced within the Disputed Domain Name. In addition, the Panel finds that the other components of the Disputed Domain Name (i.e., "-wealth" and the gTLD suffix ".com") do not prevent a finding of confusing similarity between the Disputed Domain Name and the ADM Trademarks for the purposes of the Policy. Accordingly, the Panel finds that the Disputed Domain

Name is confusingly similar to the trademark in which the Complainant has rights, and the condition of paragraph 4(a)(i) of the Policy has been fulfilled.

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.

Paragraph 4(a)(ii) of the Policy provides that “[a domain-name holder] is required to submit to a mandatory administrative proceeding in the event that [a complainant] asserts to the applicable [administrative-dispute-resolution service provider], in compliance with the Rules of Procedure, that [...] (ii) [the respondent has] no rights or legitimate interests in respect of the [disputed] domain name[...].”

Paragraph 4(c) of the Policy sets out the following circumstances which, without limitation, if found by the Panel, shall demonstrate that the Respondent has rights to, or legitimate interests in, the Disputed Domain Name, for the purposes of paragraph 4(a)(ii) of the Policy:

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

Pursuant to paragraphs 4(a)(ii) and 4(c) of the Policy, the Complainant is required to first establish a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The burden of production then shifts to the Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name.

The Panel finds that that the Complainant has not authorized or licensed the Respondent any right to use the ADM Trademarks in the Disputed Domain Name. In addition, the Disputed Domain Name currently resolves to an inactive website which does not support a finding of fair use, nor demonstrate that the Disputed Domain Name is being used in connection with a bona fide offering of goods or services. The Panel also notes that although the information provided by the Registrar identifies the Respondent as “ADM, ADM”, the Complainant expressly disavows the Respondent’s use of the Complainant’s name, address, and phone number, and the Respondent has not come forward with evidence indicating otherwise. Accordingly, there is no available evidence indicating that the Respondent is commonly known by the Disputed Domain Name.

The evidence submitted by the Complaint shows that the website to which the Disputed Domain Name previously resolved, suggests it may have been used for displaying the Complainant’s logo and trademark, and collecting personal data in order to access the website. Previous panels have consistently held that the use of a domain name for illegal activity, here, claimed impersonation/passing off to collect personal information, can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#), section 2.13.1).

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. The Respondent has not come forward with any relevant arguments or evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

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

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that “[a domain-name holder] is required to submit to a mandatory administrative proceeding in the event that [a complainant] asserts to the applicable [administrative dispute resolution service providers], in compliance with the Rules of Procedure, that [...] (iii) [the respondent’s] domain name has been registered and is being used in bad faith”.

Paragraph 4(b) of the Policy explicitly states, in relevant part, that the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

(iv) by using the domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent’s] website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [the respondent’s] website or location or of a product or service on [the respondent’s] website or location.

In the present case, the Panel notes that the Complainant’s trademark was first registered in 1986 and used as early as 1923, which indicates that the Complainant’s trademarks were registered 37 years before the registration of the Disputed Domain Name and used 100 years prior to the same. The Panel also finds that the Complainant has adequately shown that its trademark is well known, and considering the previous use of the Complainant’s logo and trademark on the website at the Disputed Domain Name, the Panel also finds that the Respondent was aware of the Complainant when registering the Disputed Domain Name. The Panel finds the Disputed Domain Name was registered in bad faith.

The Disputed Domain Name currently resolves to an inactive website, and the Panel finds that the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the circumstances of this case. In the present case, the Complainant has come forth with evidence indicating that the Disputed Domain Name previously resolved to a website collecting personal data. This website featured the Complainant’s name, logo, and onsite pictures. Use of a domain name for fraudulent activity – here, claimed impersonation/passing off to collect personal information – constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the available record, the Panel finds that the Disputed Domain Name is being used in bad faith.

Having considered the above, the Panel finds the Respondent has registered and used the Disputed Domain Name in bad faith. Thus, the Panel finds that the condition of paragraph 4(a)(iii) has been fulfilled.

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-wealth.com> be transferred to the Complainant.

/Peter J. Dernbach/

Peter J. Dernbach

Sole Panelist

Date: April 9, 2024