

ADMINISTRATIVE PANEL DECISION

Arnold Clark Automobiles Limited v. jiangli
Case No. D2024-1233

1. The Parties

The Complainant is Arnold Clark Automobiles Limited, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is jiangli, China.

2. The Domain Names and Registrar

The disputed domain names <arnoldclarkemployee.com>, <arnodclarkemployee.com>, <arnoldclakemployee.com>, and <arnoldclarkemploye.com> (the “Disputed Domain Names”) are registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 21, 2024. On March 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On March 24, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent (REDACTED FOR PRIVACY, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 26, 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 March 27, 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 April 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 26, 2024.

The Center appointed Nicholas Weston as the sole panelist in this matter on May 2, 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 was incorporated in the United Kingdom in 1954 and operates a car dealership business that generates an annual turnover exceeding GBP 3.6 billion. The Complainant holds registrations for the trademark ARNOLD CLARK and variations of it in the United Kingdom, including, inter alia, the ARNOLD CLARK trademark (Registration No. UK00002103334) registered on April 4, 1997, and the ARNOLD CLARK trademark (Registration No. UK00002300325) registered on December 13, 2002.

The Complainant owns numerous domain names that comprise of, or contain, the trademark ARNOLD CLARK, including the domain name <arnoldclark.com>, registered on October 24, 1997 and <arnoldclarkemployee.com> registered on January 29, 2015.

The Respondent registered the four Disputed Domain Names on June 26, 2023. Each of the Disputed Domain Names resolves to a Pay-Per-Click (“PPC”) landing-page bearing the words “Employee Self Service Software” and “Hr Payroll Services”, “Employee Benefits Management System” and each displays further sponsored links relating to employee benefits and employee management.

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 Disputed Domain Names.

Notably, the Complainant cites its trademark registrations in the United Kingdom for the mark ARNOLD CLARK and variations of it, as prima facie evidence of ownership.

The Complainant submits, in essence, that its rights in the mark ARNOLD CLARK predate the Respondent’s registration of the Disputed Domain Names. It submits that the Disputed Domain Names are confusingly similar to its trademark, because the Disputed Domain Names are comprised of the ARNOLD CLARK trademark and that the omission of the letters “r”, “l”, and “r”, respectively, are not sufficient to avoid the confusing similarity.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because the Respondent “has not received any permission or consent from the Complainant to use its trademark” and that none of the circumstances set out in paragraph 4(c) of the Policy apply.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Names were, and currently are, in bad faith, contrary to the Policy and the Rules having regard to the prior use and well-known nature of the Complainant’s trademark, and advances the argument that the use of the Disputed Domain Names for PPC advertising is use in bad faith.

B. Respondent

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

6. Discussion and Findings

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

- (i) that the Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names; and
- (iii) that the Disputed Domain Names have been registered and are 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 Names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any country. [WIPO Overview 3.0](#), section 1.2.1. The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark ARNOLD CLARK.

Turning to whether the Disputed Domain Names are identical or confusingly similar to the ARNOLD CLARK trademark, the Panel observes that each Disputed Domain Name is comprised of: either (a) an exact reproduction of the Complainant's trademark ARNOLD CLARK; or (b) with, respectively, the letters "r", "l", and "r" omitted; and (c) followed by the generic Top-Level Domain ("gTLD") ".com".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11. The relevant comparison to be made is with the second-level portion of each of the Disputed Domain Names, specifically: "anoldclarkemployee", "arnodclarkemployee", "arnoldclakemployee", and "arnoldclarkemployee", respectively.

This first three Disputed Domain Names each contains a misspelling to the Complainant's trademark. The Panel finds the mark is recognizable within the Disputed Domain Names. Accordingly, these Disputed Domain Names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.9.

The Panel finds, in the case of the Disputed Domain Name <arnoldclarkemploye.com>, that the entirety of the mark is reproduced within that Disputed Domain Name. Accordingly, that Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms "employee" or "employe" (omission of the letter "e"), may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Disputed Domain Names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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 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. 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 Disputed Domain Names (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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Names. 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 Disputed Domain Names such as those enumerated in the Policy or otherwise.

The Panel notes the evidence that the Disputed Domain Names resolve to PPC landing pages, which supports the Complainant’s submission on that point and finds that this does not represent a bona fide offering of goods or services, or a legitimate noncommercial or fair use, given the evidenced reputation and goodwill of the Complainant’s mark or capacity to otherwise mislead Internet users.

The Panel also notes that each Disputed Domain Name contains the word “employee”, or a misspelling of that word, suggesting that the Respondent intends to impersonate the Complainant in a phishing campaign or some kind of employee targeted scam, particularly considering the Complainant owns the domain name <arnoldclarkemployee.com>.

Based on the available record, the Panel finds the second element of the Policy has been established for all of the Disputed Domain Names.

C. Registered and Used in Bad Faith

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.

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.

In the present case, the Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Names in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Names, the distinctive nature of the Complainant’s trademark, and the Complainant’s domain name <arnoldclarkemployee.com>, the Panel is satisfied that the Respondent knew of and targeted the Complainant’s trademark ARNOLD CLARK when it registered the Disputed Domain Names, see *Arnold Clark Automobiles Limited v. Vietnam Domain Privacy Services / Pham Dinh Nhut*, WIPO Case No. [D2016-0562](#) “[t]he Complainant has held registered rights in the Trade Mark for almost 20 years. It is clearly an established brand.”; *Arnold Clark Automobiles Limited v. DOMAIN MAY BE FOR SALE, CHECK AFTERNIC.COM Domain Admin, Domain Registries Foundation*, WIPO Case No. [D2016-2035](#) “the Complainant and its mark are well-known”; *Arnold Clark Automobiles Limited v. Whois Agent, Whois Privacy Protection Service, Inc. / George Washere*, WIPO Case No. [D2018-0558](#) “[t]he evidence establishes that the trade mark ARNOLD CLARK is distinctive of the Complainant and its large-scale car dealership business”.

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Names other than to trade off the reputation and goodwill of the Complainant's well-known trademark. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

Further, a gap of several years between registration of a complainant's trademark and respondent's registration of a disputed domain name containing the trademark can indicate bad faith registration. In this case, the Respondent registered the Disputed Domain Name some 25 years after the Complainant established registered trademark rights in the ARNOLD CLARK mark.

On the issue of use, the Complainant's evidence is that each of the Disputed Domain Names resolves to a PPC landing page bearing the words "Employee Self Service Software" and "Hr Payroll Services", "Employee Benefits Management System" and each displays further sponsored links relating to employee benefits and employee management. The Complainant has supplied evidence that it owns the domain name <arnoldclarkemployee.com> registered on January 29, 2015, which resolves to a portal for its employees.

In the circumstances, the Panel finds the Respondent's registration and use of the Disputed Domain Names constitutes bad faith under the Policy.

Based on the available record, 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 Disputed Domain Names <anoldclarkemployee.com>, <arnodclarkemployee.com>, <arnoldclakemployee.com>, and <arnoldclarkemploye.com> be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: May 16, 2024