

ADMINISTRATIVE PANEL DECISION

Archer-Daniels-Midland Company v. Beata Tkacz, adm part, Repossessed by Go Daddy
Case No. D2024-3301

1. The Parties

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

The Respondents are Beata Tkacz, Poland, adm part, United States, and Repossessed by Go Daddy, United States.

2. The Domain Names and Registrars

The disputed domain name <admcors.com> is registered with GoDaddy.com, LLC.

The disputed domain names <admprocesing.com> and <adm-project.online> (<admcors.com>, <admprocesing.com>, and <adm-project.online> are collectively referred to as the “Disputed Domain Names”) are registered with NameCheap, Inc. (GoDaddy.com, LLC and NameCheap, Inc. are collectively referred to as the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 12, 2024. On August 13, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the Disputed Domain Names. On August 13, 2024, the Registrars 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 (Unknown) and contact information in the Complaint.

On August 16, 2024, the Center informed the Complainant that the Registrar GoDaddy.com, LLC was willing to hand over the disputed domain name <admcors.com> to the Complainant via an approved settlement, because the disputed domain name <admcors.com> has been repossessed. However, the Complainant did not request to suspend the proceeding.

The Center sent an email communication to the Complainant on August 16, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the Disputed Domain Names associated with different

underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all Disputed Domain Names are under common control. The Complainant filed an amended Complaint on August 20, 2024. The Center sent the email regarding Consolidation on August 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 Respondents of the Complaint, and the proceedings commenced on August 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 17, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on September 19, 2024.

The Center appointed Nicholas Weston as the sole panelist in this matter on October 9, 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 United States headquartered multinational company founded in 1902 that operates a number of businesses that include food and food processing, commodities, financial services, printing, publishing, logistics, business management and technology platforms with worldwide sales in 2023 of USD 93 billion. The Complainant holds registrations for the trademark ADM and variations of it in numerous jurisdictions, including, for example, United States registration No. 1,386,430, registered on March 18, 1986 and European Union Trade Mark No. 000913194 registered on February 15, 2001.

The Complainant owns the domain name <adm.com>, which resolves to its main website.

The Disputed Domain Name <admcors.com> was registered on May 20, 2024; the Disputed Domain Name <admprocesing.com> was registered on June 10, 2024; and, the Disputed Domain Name <adm-project.online> was registered on May 13, 2024. Each of the Disputed Domain Names was used to send emails in an attempted fraudulent phishing scheme.

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 numerous countries for the mark ADM and variations of it, as prima facie evidence of ownership.

The Complainant submits, in essence, that the mark ADM is “internationally famous” and that its rights in that mark predate the Respondents’ 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 ADM trademark and that the addition of the words “cors”, “procesing” and “-project” are not sufficient to avoid the confusing similarity.

The Complainant contends that the Respondents have no rights or legitimate interests in respect of the Disputed Domain Names because the Disputed Domain Names do not resolve to any active websites and

“the Respondent has only used the domains to send fraudulent communications while impersonating multiple ADM employees”. The Complainant alleges that the Disputed Domain Names “were all registered within a few weeks of each other, and shortly thereafter were used in furtherance of one large fraudulent scheme [... and that ... a]ny legitimate rights or interests in the domain names are negated by the Respondent’s attempt to fraudulently impersonate ADM employees” 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 Respondents “sent fraudulent communications associated with those domains, solely to commit fraud and further their illicit scheme, by impersonating an ADM accounting employee” which is use in bad faith.

B. Respondents

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

6. Discussion and Findings

6.1 Preliminary Matter – Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that “[t]his is not a case of independent actors engaging in similar misconduct by coincidence; rather, it is a coordinated effort that demonstrates clear common control between the domains, whether by a single respondent or by multiple respondents acting collaboratively in a coordinated manner”. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant’s request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant’s request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.11.2.

As regards common control, the Panel notes that the Complainant has pointed to a pattern of irregularities that suggest that the Disputed Domain Names are under common control. Two of the Disputed Domain Names <adm-project.online> and <admcors.com> were registered with different registrars within one week of each other, all of the Disputed Domain Names were registered within approximately one month of each other; all of the Disputed Domain Names were used in a coordinated way in the same fraudulent scheme that engaged in the same tactics, were used as email addresses within the same email chains, targeting the same third-party company and impersonating the same ADM employee.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party. It is not plausible that three different people should decide to use a third-party trademark to register the Disputed Domain Names around the same time to engage in a joint fraudulent enterprise.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondent”) in a single proceeding.

6.2 Preliminary Matter – Consent to Remedy

The Panel notes that the Registrar GoDaddy has confirmed the registrant of the Disputed Domain Name <admcorps.com> is “Repossessed by Go Daddy” and in this capacity offered to transfer the Disputed Domain Name to the Complainant.

“Where parties to a UDRP proceeding have not been able to settle their dispute prior to the issuance of a panel decision using the ‘standard settlement process’ described above, but where the respondent has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the complainant, many panels will order the requested remedy solely on the basis of such consent. In such cases, the panel gives effect to an understood party agreement as to the disposition of their case (whether by virtue of deemed admission, or on a no-fault basis)”. [WIPO Overview 3.0](#), section 4.10. The Panel finds that this is an appropriate case to rely on a stated consent (here by the Registered Name Holder) to order a transfer of the Disputed Domain Name <admcorps.com>. See *Archer-Daniels-Midland Company v. Repossessed by Go Daddy*, WIPO Case No. [D2024-2189](#).

The Panel will make a determination on the substantive matters regarding the Disputed Domain Names <admprocesing.com> and <adm-project.online> below.

6.3 Substantive Matters

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 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 ADM in numerous countries.

Turning to whether the Disputed Domain Names are identical or confusingly similar to the ADM trademark, the Panel observes that each Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant’s trademark ADM; (b) followed by the suffixes “procesing” and “-project”, respectively; (c) followed by the generic Top-Level Domain (“gTLD”) “.com” in two instances and “.online” in the third instance.

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 two Disputed Domain Names, specifically: “admprocesing” and “adm-project”, respectively.

The Panel finds the entirety of the mark is reproduced within the Disputed Domain Names. Accordingly, the Disputed Domain Names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of the terms “procesing”, and “-project”, 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.

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 two of the Disputed Domain Names are inactive and one resolves to a pay-per-click parking page displaying the words “Kodak Film”, “Lagertechnik Regale” (in English, “Storage technology shelves”) and “Webanwendunbg Programmierieren Lassen” (in English, “have a web application programmed”), and finds that this does not represent a bona fide offering of goods or services, or a legitimate noncommercial or fair use, given the substantial reputation and goodwill of the Complainant’s mark or capacity to otherwise mislead Internet users.

The Panel also notes that the evidence shows all Disputed Domain Names were used to impersonate an employee of the Complainant in an attempt to perpetrate a financial scam.

Panels have held that the use of a domain name for illegal activity, such as phishing, impersonation, passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 and the Complainant's long-standing trademark, the Panel is satisfied that the Respondent deliberately targeted the Complainant's trademark ADM when it registered the Disputed Domain Names.

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. [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 Names 48 years after the Complainant established registered trademark rights in the ADM mark.

On the issue of use, the Complainant's evidence is that each of the Disputed Domain Names were used to impersonate an employee of the Complainant in email addresses used to send correspondence for the purpose of redirecting invoice payments from third party suppliers.

Panels have held that the use of a domain name for illegal activity, here, alleged phishing, impersonation, or passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Complainant supplied evidence of the fraudulent scheme in operation. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Names constitutes bad faith under the Policy.

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, and the Registered Name Holder's express consent regarding <admcors.com>, the Panel orders that the Disputed Domain Names <admcors.com>, <admprocesing.com>, and <adm-project.online> be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: October 23, 2024