

## **ADMINISTRATIVE PANEL DECISION**

Archer-Daniels-Midland Company v. aag agg  
Case No. D2024-4283

### **1. The Parties**

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

The Respondent is aag agg, India.

### **2. The Domain Name and Registrar**

The disputed domain name <adm-group.top> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 17, 2024. On October 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 21, 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, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 22, 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 amendment to the Complaint on October 24, 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 the Respondent of the Complaint, and the proceedings commenced on October 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 17, 2024. The Respondent sent email communications to the Center on November 7, 8, 9, 13, and 15, 2024. The Center informed the Parties of the commencement of panel appointment process on November 18, 2024.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on November 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**

The Complainant is known by its initials as ADM. Founded in 1902, the corporation now serves 200 countries, owns more than 800 facilities worldwide and employs over 38,000 people. In 2022, worldwide net sales at the Complainant were USD 101 billion. 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 is the owner of several trademarks for ADM (“ADM trademark”), including:

- United States Trademark Registration ADM No. 1386430, registered on March 18, 1986,
- United States Trademark Registration ADM No. 2766613, registered on September 23, 2003, and

The Complainant is also the owner of domain names including the ADM trademark, such as the domain name <adm.com>, registered on October 12, 1994.

The disputed domain name was registered on October 2, 2024. At the time of the Decision, the disputed domain name resolved to a blocked webpage. However, the Complainant showed evidence that, when the Complaint was filed, the disputed domain name resolved to an active webpage displaying the ADM trademark as well as the Complainant’s leaf logo, asking users to provide login data, including a phone number and password. Furthermore, the Complainant showed evidence that the Respondent displayed the ADM trademark and the Complainant’s leaf logo in a YouTube video and advertised herein that viewers can generate income by accessing the website under the disputed domain name.

#### **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 name.

On the first element of the Policy, the Complainant claims that the disputed domain name is confusingly similar to the ADM trademark. The disputed domain name completely incorporates the ADM trademark and ADM is the most prominent portion of the disputed domain name. Given Complainant’s global reach and multi-national career placements, including Asia, Europe, North America, and Latin America, as well as the many references to the Complainant throughout the fraudulent website under the disputed domain name and YouTube videos, it is virtually impossible that the use of ADM’s corporate name was selected randomly. Instead, upon information and belief, the disputed domain name was deliberately selected for the sole reason that it is identical to ADM’s well known acronym corporate name such that it would create an impression of legitimate association with ADM, thereby actually increasing the confusing similarity between the disputed domain name and the ADM trademark. In cases where the domain name incorporates the entirety of the mark, the inclusion of the generic term “group” does nothing to distinguish the domain name or prevent a finding of confusing similarity. Furthermore, Panels have established that Top-Level Domains (“TLD”) like “.top” are not taken into account for the purposes of assessing confusing similarity.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. Upon information and belief, the Respondent has not been commonly known by the disputed domain name. The Respondent has not been known by the disputed domain name and this is evident by the fact that it was registered on October 2, 2024, and merely two days later the Complainant discovered Respondent's YouTube videos promoting its fraudulent application available through the disputed domain name. Any legitimate rights or interests in the disputed domain name are negated by the Respondent's attempt to attract unsuspecting individuals through online advertising on multiple YouTube channels and through the disputed domain in order to reach the public in a manner plausibly associated with ADM. The disputed domain name was designed to appear confusingly similar to the ADM trademark. The Complainant's logo is prominently displayed on the sign-up page of the website under the disputed domain name, as well as throughout the YouTube videos, which demonstrates a clear intent of fraud and bad faith. Upon information and belief, the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain. Instead, the Respondent is using the disputed domain name to deceive individuals and to tarnish the ADM trademark. Moreover, the disputed domain name's website is active and is used to obtain user's identifying information, including their phone number. Thus, upon information and belief, Respondent does not use nor has made preparations to use the disputed domain name with a bona fide offering of goods or services. Rather, the Respondent has only used the disputed domain name to engage in fraudulent transactions with unsuspecting users by advertising the fraudulent investment application on YouTube and using the disputed domain name to access the same. This demonstrates Respondent's malicious intent to deceive and mislead YouTube subscribers, unsuspecting users and those believing that the fraudulent application is offered by the Complainant.

On the third element of the Policy, the Complainant asserts that the Respondent has registered and used the disputed domain name in bad faith. Upon information and belief, the Respondent is using the ADM trademark, name, and robust global online presence in bad faith via the disputed domain name and associated YouTube videos to promote the fraudulent investment application. By utilizing the ADM trademark and name within the disputed domain name and elsewhere, the Respondent is clearly attempting to mislead the public into believing they are coming across an application or login page for an investment application that is legitimately associated with the Complainant. The Respondent has attempted to mislead at least 118,000 subscribers to the YouTube channels through which the disputed domain name was marketed. It is clear that the Respondent is aiming to intentionally trade on the goodwill of the Complainant's fame, trademarks, reputation, and online presence through its disputed domain name, and is in violation of ADM's prior rights and international civil and criminal laws. The Respondent undoubtedly used the ADM trademark to create the impression that the investment application marketed on YouTube is associated and offered by the Complainant. The Respondent displayed ADM's registered leaf logo on the sign-in page of the website as well as in the YouTube videos promoting the fraudulent application. Given the worldwide fame of the ADM trademarks and the company itself, and the Respondent's use of ADM's intellectual property, the Respondent was certainly aware of the Complainant's rights in the ADM trademark and company name prior to registering the disputed domain name. Simply put, the facts of this case can lead to no other conclusion than concluding that the Respondent is not only using the disputed domain name in bad faith but registered it in bad faith as well. Furthermore, the Panel has consistently determined that domain names registered and used to defraud the public are sufficient to make a finding of bad faith.

## **B. Respondent**

The Respondent sent informal email communications to the Center asking what the proceeding is about and indicating that it bought the disputed domain name by mistake but did not substantially reply to the Complainant's contentions.

## 6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

It has been a consensus view in previous UDRP decisions that a respondent's default (i.e., failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

- (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

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 name. [WIPO Overview 3.0](#), section 1.7.

The applicable TLD in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms would not prevent a finding of confusing similarity under the first element. The nature of such additional terms may however bear on assessment of the second and third elements. [WIPO Overview 3.0](#), section 1.8.

The 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 ADM trademark is reproduced within the disputed domain name, with the addition of a hyphen and the term "group". The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy.

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 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.

Panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Complainant has not authorized, licensed, or permitted the Respondent to register or use the disputed domain name or to use the ADM trademark. The Panel finds on the record that there are no indications that the Respondent is commonly known by the disputed domain name or otherwise has any rights to or legitimate interests in the disputed domain name. Further, there are no evident preparations for the use of the disputed domain name for a bona fide offering of goods or services. Rather, the disputed domain name resolved to a webpage, displaying the ADM trademark as well as the Complainant's leaf logo, asking users to provide login data, including a phone number and password. Furthermore, the Respondent displayed the ADM trademark and the Complainant's leaf logo in a YouTube video and advertised herein that viewers can generate income by accessing the website under the disputed domain name. It seems likely to the Panel that the Respondent used the disputed domain name for fraudulent purposes.

In any case, 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 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 name such as those enumerated in the Policy or otherwise.

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

### **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.

Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Considering the public presence of the Complainant, it is unlikely that the Respondent had no knowledge of the ADM trademark. The incorporation of the ADM trademark within the disputed domain name, with the addition of the term "group", demonstrates the Respondent's actual awareness of the Complainant and intent to target the Complainant. Furthermore, the disputed domain name resolved to a webpage, displaying the ADM trademark as well as the Complainant's leaf logo, asking users to provide login data, including a phone number and password. Moreover, the Respondent displayed the ADM trademark and the Complainant's leaf logo in a YouTube video and advertised herein that viewers can generate income by accessing the website under the disputed domain name. By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the ADM trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Moreover, it seems even likely to the Panel that the Respondent used the disputed domain name for fraudulent purposes.

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 name <adm-group.top> be transferred to the Complainant.

*/Christian Gassauer-Fleissner/*

**Christian Gassauer-Fleissner**

Sole Panelist

Date: November 29, 2024