

ADMINISTRATIVE PANEL DECISION

Arm Limited v. James Christ
Case No. D2023-4674

1. The Parties

The Complainant is Arm Limited, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is James Christ, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <aarm.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 10, 2023. On November 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 11, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 November 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 22, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on December 27, 2023. 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 semiconductor IP company incorporated in the United Kingdom in 1990. It employs over 6,000 and has offices in more than 19 territories around the world. The Complainant's processors serve as the Central Processing Unit ("CPU") for 225 billion devices worldwide, including mobile phones from Nokia, Sony Ericsson, and Samsung, as well as laptops, tablets, televisions, and other electronic products. The Complainant has trademark registrations for the ARM mark including Trademark Registration Number 2000006 registered in the United Kingdom on October 31, 1994, Trademark Registration Number 001112986 registered in the European Union on June 8, 2000, and Trademark Registration Number 2332930 registered in the United States of America on March 21, 2000.

The Respondent is an individual with an address in Nigeria.

The disputed domain name was registered on October 11, 2023. It does not resolve to any active website but has been used in connection with a phishing scam.

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.

First, the Complainant contends that the disputed domain name is confusingly similar to the mark in which the Complainant has rights. The Complainant states that the disputed domain name only differs from the Complainant's mark by the additions of the letters "a" and "r". The Complainant further states that its ARM mark remains the dominant element of the disputed domain name, and that the additional, repeated letters do not distinguish the disputed domain name from the Complainant's mark.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant also states that the disputed domain name has been used in connection with a phishing scam. Specifically, the Complainant asserts that an entity purporting to be "ARM Accounts Receivable Team" sent emails from the email address "xxxx@aarm.com" to one of the Complainant's customers, providing an invoice and asking for payment to its own bank account. The emails were sent in the name of one of the Complainant's employees, and incorporated the Complainant's ARM logo, limited company name, and postal address of its primary office. The Complainant states that use of the disputed domain name for criminal activity, including phishing, can never give the Respondent a legitimate interest in the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and used in bad faith. The Complainant contends that the Respondent registered the disputed domain name, intending to attract Internet users through confusion, and attempted to deceive Internet users through phishing. Further the Complainant states that the disputed domain name was passively held which does not preclude a finding of bad faith.

B. Respondent

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

6. Discussion and Findings

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["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. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. The disputed domain name contains the additional letters "a" and "r", the Complainant's mark is still readily recognizable within the disputed domain name.

Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 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.

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.

Also, the evidence shows that the Respondent used the disputed domain name in an apparent phishing scheme in which the Respondent tried to pass itself off as an employee of the Complainant in order to deceive the Complainant's customer into transferring funds into the Respondent's bank account. 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.

Based on the available record, 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.

In the present case, the Panel notes that the Respondent used the disputed domain name to perpetuate fraud by sending an email from the disputed domain name to the Complainant's client, seeking payment on a fraudulent invoice. The emails from the Respondent were disguised as an email from an employee of the Complainant, and the Complainant's postal code, telephone number, and logo were used in the signature block in order to deceive the recipient into believing that the email actually came from the Complainant. Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Further, considering the use of the disputed domain name in perpetuating fraud, it is quite clear that the Respondent registered the disputed domain name with knowledge of the Complainant's trademark and the intent to benefit financially from the disputed domain name and the Complainant's trademark.

Furthermore the disputed domain name does not display any content, but from the inception of the UDRP, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. See [WIPO Overview 3.0](#), section 3.3. Considering the use of the disputed domain name for phishing activities, the Respondent's failure to submit a response or provide any evidence of actual or contemplated good-faith use, and the implausibility of any good faith use to which the confusingly similar disputed domain name could be put, the Panel finds that the Respondent's use of the disputed domain name does not prevent a finding of bad faith.

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 name <aarm.com> be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: January 10, 2024