

## **ADMINISTRATIVE PANEL DECISION**

Archer-Daniels-Midland Company v. Jody Robert Camps  
Case No. D2022-1433

### **1. The Parties**

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

Respondent is Jody Robert Camps, United States.

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

The disputed domain name <addnm.com> is registered with IONOS SE (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 21, 2022. On April 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on April 29, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on May 4, 2022.

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 Respondent of the Complaint, and the proceedings commenced on May 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 26, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent’s default on May 29, 2022.

The Center appointed Ingrīda Kariņa-Bērziņa as the sole panelist in this matter on June 8, 2022. 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**

Complainant is a multinational food processing company known internationally by the acronym ADM. It is the proprietor of numerous registrations for its ADM mark, including the following:

- United States Trademark No. 1386430 for ADM (word mark), registered on March 18, 1986 for goods in classes 1, 4, 12, 16, 29, 30, 31, 33, and 39;
- United States Trademark No. 3344263 for E-ADM (word mark), registered on November 27, 2007 for services in class 35 and 36;
- European Union Trademark No. 00913194 for ADM (word mark), registered on February 15, 2001 for goods and services in classes 1, 4, 5, 29, 30, 31, 33 and 39.

The disputed domain name was registered on April 15, 2022. It does not resolve to an active website. The record contains copies of emails to Complainant's customers sent using the disputed domain name requesting payment of an invoice appended thereto. The invoice reproduces the Complainant's company name, and logo.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant's contentions may be summarized as follows:

Under the first element, Complainant states that the disputed domain name is confusingly similar to its ADM mark, since it completely incorporates the well-known ADM mark, with the addition of the letters "d" and "n".

Under the second element, Complainant states that Respondent has never been known by the disputed domain name, nor has Respondent ever been licensed or authorized by Complainant to use its marks. Respondent has used the disputed domain name to send fraudulent emails to redirect funds intended for Complainant to itself.

Under the third element, Complainant states that the ADM mark is well-known internationally and the registration of the disputed domain name intended to mislead Internet users. Respondent is using the disputed domain name to impersonate an ADM employee for fraudulent purposes. Respondent has improperly obtained information about Complainant's customers and has initiated correspondence to attempt to divert customer payments to itself.

Complainant requests transfer of the disputed domain name.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

#### **6. Discussion and Findings**

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) Respondent has registered and is using the disputed domain name in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint 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”.

#### **A. Identical or Confusingly Similar**

Complainant has provided evidence establishing that it has trademark rights in the ADM marks through registrations in several jurisdictions. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.

In comparing Complainant’s ADM mark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to this mark as the trademark is recognizable within the disputed domain name. The Panel also finds that the disputed domain name is confusingly similar to Complainant’s ADM mark as it consists of a misspelling of that mark. It is the consensus view of UDRP panels that, in such cases, a domain name is considered to be confusingly similar to the relevant mark for purposes of the first element because Complainant’s mark is sufficiently recognizable within the disputed domain name. See [WIPO Overview 3.0](#), section 1.9. In addition, the Panel finds that the use of the disputed domain name for an email address seeking to impersonate the Complainant supports a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.7.

It is the well-established view of UDRP panels that a generic Top-Level Domain (“gTLD”), such as “.com”, is viewed as a standard registration requirement and as such may be disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#), section 1.11.1, and cases cited thereunder).

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

#### **B. Rights or Legitimate Interests**

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by Complainant and has no rights in the ADM mark. Considering the evidence presented that Respondent has engaged in efforts to target Complainant’s clients by impersonating Complainant’s employee, it is clear that the disputed domain name reflects a deliberate misspelling of Complainant’s ADM mark. Such use cannot confer rights or legitimate interests.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent has not provided any rebuttal of Complainant’s *prima facie* case and has therefore not proved rights or legitimate interests in the disputed domain name. There is no evidence that Respondent is commonly known by the disputed domain name, or that there are any circumstances or activities that would establish Respondent’s rights therein. Complainant has brought forward evidence that Respondent has engaged in a fraudulent scheme using the disputed domain name. Respondent has not refuted this evidence. The Panel finds that the circumstances indicate illegal activity, which would preclude a finding of rights or legitimate interests on the part of Respondent. See [WIPO Overview 3.0](#), section 2.13.1.

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel finds that Complainant has demonstrated Respondent's bad faith registration of the disputed domain name. Complainant provides uncontroverted evidence that its rights in the ADM mark predate the registration of the disputed domain by decades. The disputed domain name is a deliberate misspelling of Complainant's well-known ADM mark. Under such circumstances, UDRP panels have consistently found that the registration of a domain name that is identical or confusingly similar to a well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith on the part of Respondent. See [WIPO Overview 3.0](#), section 3.1.4. Respondent has not provided any information that would rebut this presumption. The fact that the disputed domain name has been used shortly after its registration to impersonate Complainant's employee leads the Panel to consider that Respondent registered the disputed domain name with Complainant's ADM mark to unfairly take advantage of its confusing similarity.

The Panel also finds that Complainant has demonstrated Respondent's bad faith use of the disputed domain name. The evidence provided by Complainant clearly indicates that Respondent was perpetuating a fraudulent scheme by using the disputed domain name to generate emails in which Respondent impersonated Complainant's employee and sought to invoice Complainant's customers. Consistent with UDRP panel practice, such conduct clearly demonstrates bad faith. See [WIPO Overview 3.0](#), section 3.4.

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) 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 <addnm.com> be transferred to Complainant.

*/Ingrīda Kariņa-Bērziņa/*

**Ingrīda Kariņa-Bērziņa**

Sole Panelist

Date: June 16, 2022