

## **ADMINISTRATIVE PANEL DECISION**

Arnold Clark Automobiles Limited v. Michael work  
Case No. D2024-2025

### **1. The Parties**

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

The Respondent is Michael work, United Kingdom.

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

The disputed domain name <arnoldclarkhq.com> is registered with GMO Internet Group, Inc. d/b/a Onamae.com (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 15, 2024. On May 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 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 (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 21, 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 the same day.

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 May 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 17, 2024.

The Center appointed Gareth Dickson as the sole panelist in this matter on June 24, 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 one of Europe's largest independently owned family-run car dealerships, and commenced its business operations in 1954. Since then, the Complainant has expanded significantly and now has around 200 new and used car dealerships and 160 service centers across the United Kingdom. The Complainant's business encompasses a wide range of automotive services, including car sales, leasing, fleet services, finance, insurance, and aftercare.

The Complainant operates under the trade mark ARNOLD CLARK (the "Mark") and owns a number of trade mark registrations for the Mark, including:

- United Kingdom Trade Mark No. UK00002103334, registered on April 4, 1997;
- United Kingdom Trade Mark No. UK00002300325, registered on December 13, 2002;
- United Kingdom Trade Mark No. UK00003242030, registered on June 1, 2018;
- United Kingdom Trade Mark No. UK00003242025, registered on June 1, 2018.

The disputed domain name was registered on February 24, 2024. The Respondent is currently passively holding the disputed domain name, as it resolves to a hosting provider's parking page with no active website content. However, the disputed domain name's Domain Name System (DNS) configuration includes Mail eXchanger (MX) and Sender Policy Framework (SPF) records, indicating that it has been set up to enable email communication.

#### **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.

The Complainant argues that the disputed domain name is confusingly similar to the Mark, as it incorporates the Mark in its entirety, with the addition of the term "hq" which is commonly understood as an abbreviation for "headquarters".

The Complainant further contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as there is no evidence that the Respondent is known by the name "Arnold Clark" or has any association with the Complainant. Furthermore, the Complainant submits that the disputed domain name was registered and is being used in bad faith, as evidenced by the Respondent's passive holding of the disputed domain name, the potential for misleading emails due to the disputed domain name's email configuration and incorporation of the Mark in its entirety, and the Respondent's apparent geographical proximity to the Complainant's headquarters, suggesting knowledge of the Complainant's rights in the Mark.

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

Despite being notified of the administrative proceeding, the Respondent failed to submit a formal response and, as a result, the Notification of Respondent Default was issued. Consequently, the Panel has not received any rebuttal or evidence from the Respondent to counter the Complainant's allegations.

## **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 trade mark and the disputed domain name. 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 trade mark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Mark is reproduced 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.

Although the addition of other terms or letters, here "hq", may bear on assessment of the second and third elements, the Panel finds the addition of such letters here does not prevent a finding of confusing similarity between the disputed domain name 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 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. Given the similarity of the disputed domain name to the Mark, and the geographical proximity of the Respondent to the headquarters of the Complainant, the absence of any independently verifiable rebuttal from the Respondent means that 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 must have known of the Mark when it registered the disputed domain name, and has nonetheless registered the disputed domain name with additional letters ("hq" commonly understood as abbreviations for "headquarters") which are only likely to reinforce to the

average Internet users the perception that the disputed domain name is part of a communication channel that has been officially recognised by the Complainant, contrary to the fact.

The fact that the disputed domain name is not being used for an active website, and that there is no evidence of use being made of it for email correspondence, does not assist the Respondent in these proceedings. Panels have found that the non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the reputation of the Complainant's trade mark, the composition of the disputed domain name clearly targeting the Mark, and the geographical proximity of the Respondent to the headquarters of the Complainant, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of 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, the Panel orders that the disputed domain name <arnoldclarkhq.com> be transferred to the Complainant.

*/Gareth Dickson/*

**Gareth Dickson**

Sole Panelist

Date: July 8, 2024