

## **ADMINISTRATIVE PANEL DECISION**

Archer-Daniels-Midland Company v. Ada Ben Collins  
Case No. D2022-0833

### **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 Ada Ben Collins, United States.

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

The disputed domain name <archerdanielsmidlandco.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 March 9, 2022. On March 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 11, 2022, 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 March 31, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2022.

The Center appointed William F. Hamilton as the sole panelist in this matter on May 10, 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**

The Complainant is a multinational food processing and commodities trading corporation founded in 1902 and headquartered in Chicago, Illinois. The Complainant was originally founded as Daniels Linseed Co. before changing its name in 1923 to Archer-Daniels-Midland Company (sometimes referred to herein as the “corporate name”). The Complainant currently employs over 30,000 persons in more than 140 countries around the world. The Complainant has global revenues of over USD 64 billion. A Google Internet search of the Complainant’s corporate name results in hundreds, if not thousands, of responsive website “hits.”

The Complainant owns several United States Patent and Trademark Office Registrations for the mark ADM (sometimes herein referred to as the “Mark” or the “ADM Mark”), for a wide variety of products and services, commencing with Registration No. 1,386,430 dated March 18, 1986. Additionally, the Complainant owns hundreds of registrations for the Mark in national jurisdictions around the globe. The Complainant’s principal website is reached through the domain name <adm.com>.

The Respondent registered the disputed domain name on November 1, 2021. The disputed domain name resolves to a website prominently featuring the Complainant’s corporate name “Archer Daniels Midland” and the Mark. The disputed domain name has an associated MX record and configuration.

#### **5. Parties’ Contentions**

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

The Complainant asserts the disputed domain name is confusingly similar to the Complainant’s corporate name and ADM Mark because the disputed domain name is formed by wholly adopting the Complainant’s corporate name modified by deletion of the hyphens in the corporate name and changing the word “Company” in the corporate name to “co”. The Complainant asserts that the disputed domain name is thus confusingly similar to the Complainant’s corporate name and the ADM Mark because the Mark is composed from the initial letters of the three words composing the Complainant’s corporate name.

The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name or the Complainant’s corporate name, that the Respondent is not generally known by the disputed domain name or the corporate name, and that the Respondent has never engaged in any *bona fide* commercial activity in connection with the disputed domain name or the corporate name.

The Complainant asserts that the Respondent registered and used the disputed domain name in bad faith. The Complainant asserts that the Respondent registered and is poised to use the disputed domain name and email addresses associated with the disputed domain name to confuse persons into believing the email sender is associated with the Complainant.

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

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

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

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel 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 was registered and is being used in bad faith.

## A. Identical or Confusingly Similar

The Panel has considered the whether the disputed domain name is confusingly similar to the Complainant's registered Mark. The Panel has also considered whether the disputed domain name is confusingly similar to the Complainant's corporate name, which has acquired secondary meaning.

### 1. Confusing Similarity with the Complainant's Registered Mark

The Panel finds that the disputed domain name is confusingly similar to the Complainant's ADM Mark.

The Complainant's ADM Mark derives from the Complainant's corporate name by combining the "A" from Archer, the "D" from Daniels, and the "M" from Midland. The disputed domain name, while joining the names "Archer," "Daniels", and "Midland" without hyphens, can only be pronounced and spoken by articulating the three names and thus highlighting in succession the initial letters of the names "Archer," "Daniels," and "Midland" thereby replicating the ADM Mark. Additionally, the Complainant's corporate name, in an abbreviated form, is embodied in the Mark and any reference to the Complainant's corporate name entails reference to the Mark. Moreover, the broader case context such as the website content in this case, supports a finding of confusing similarity. Thus, under the principles of the Policy and WIPO jurisprudence, the disputed domain name is confusingly similar to the Mark. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7; *Archer-Daniels-Midland Company v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Buccaneer Josh, .buccaneer computer systems*, WIPO Case No. [D2021-3577](#) (transferring <archer-daniel-midland.com> finding that ADM "is recognizable as the initialism for its full corporate name "Archer-Daniels-Midland Company" and is commonly recognizable as such.").

### 2. Confusing Similarity with the Complainant's Corporate Name

The Complainant has been known worldwide as "Archer-Daniel-Midland Company" for nearly 100 years and currently employs over 30,000 persons in 140 countries around the world with revenues exceeding USD 64 billion. This extensive use has caused the corporate name to be uniquely associated with the Complainant in the public's mind. The Annexes to the Complaint establishes that the Complainant's corporate name "Archer-Daniels-Midland Company" has established worldwide recognition and unique distinctiveness. Indeed, the Complainant's attainment of unregistered trademark rights in its corporate name is confirmed and illustrated by the Respondent's wholesale adoption of the Complainant's corporate name in the disputed domain name which resolves to a website that contains both the Complainant's corporate name and the ADM mark while purporting to offer services and products similar to the products and services offered by the Complainant. The Panel finds that the Complainant's corporate name has acquired distinctiveness (also referred to as secondary meaning) and is entitled to unregistered trademark protection. [WIPO Overview 3.0](#), section 1.3.

The Panel further finds that the disputed domain name is confusingly similar to the Complainant's corporate name. The disputed domain name adopts the Complainant's corporate name entirely with only minor changes; namely, omitting the hyphens and changing the word "Company" to "co." These changes do not prevent the confusing similarity between the disputed domain name and the Complainant's corporate name. Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's unregistered trademark "Archer-Daniels-Midland Company".

The generic Top-Level Domain ("gTLD") of the disputed domain name, in this case ".com", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. [WIPO Overview 3.0](#), section 1.11.1; *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#); *International Business Machines Corporation v. Sledge, Inc. / Frank Sledge*, WIPO Case No. [D2014-0581](#).

## B. Rights or Legitimate Interests

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name, the corporate name, or the Mark. The Respondent is not affiliated with the Complainant in any way and does not have any business relationship with the Complainant. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name. *Compagnie de Saint Gobain v. Com-Union Corp.*, WIPO Case No. [D2000-0020](#).

The Complainant has thus established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent. The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, which highly resembles the Complainant's corporate name and ADM Mark, carries a risk of implied affiliation. *Compagnie Générale des Etablissements Michelin v. PrivacyDotLink Customer 1197652 / Alex Hvorost*, WIPO Case No. [D2016-1923](#) (legitimate use unlikely given the resemblance of the disputed domain name with the widely known trademark of the complainant); see [WIPO Overview 3.0](#), section 2.5.1. Moreover, the disputed domain name resolves to a website prominently and deceptively featuring the Complainant's name and Mark.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name.

## C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following scenarios:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

The Panel finds the disputed domain name was registered and is being used in bad faith for the following reasons.

A simple Internet search, normally undertaken before registering a domain name, would have disclosed the Complainant's Mark and corporate name. Common sense compels the conclusion that the Respondent was quite aware of the Complainant's Mark and corporate name when registering the disputed domain name because the Complainant's ADM Mark and corporate name are prominently featured on the Respondent's website.

Second, noting the composition of the disputed domain name, it is difficult to conceive of any use that the Respondent might make of the disputed domain name without the Complainant's consent that would not

involve bad faith. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#) (where the reputation of a complainant in a given mark is significant and the mark bears strong similarities to the disputed domain name, the likelihood of confusion is such that bad faith may be inferred); *DPDgroup International Services GmbH & Co. KG v. Wise One, Wilson TECH*, WIPO Case No. [D2021-0109](#); *Monster Energy Company v. PrivacyDotLink Customer 116709 / Ferdinand Nikolaus Kronschnabl*, WIPO Case No. [D2016-1335](#).

Finally, the potential for misuse of the disputed domain name through the email capability associated with the disputed domain name demonstrates the likelihood that the disputed domain name was registered to deceive and phish personally identifying information or money from persons or companies who believe they are dealing with the Complainant. *American Society of Hematology, Inc. v. Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Pranaey H*, WIPO Case No. [D2021-1381](#); *Tetra Laval Holdings & Finance S.A. v. Himali Hewage*, WIPO Case No. [D2020-0472](#) (configuration of MX record discloses the possibility that the disputed domain name may be aimed at phishing activities). *BDSRCO, Inc. v. Ronald Hamilton*, WIPO Case No. [D2021-0495](#) (phishing scheme to collect personal data, at best for deceptive marketing purposes and at worst for fraud or identity theft); *Prudential Assurance Company Limited v. Prudential Securities Limited*, WIPO Case No. [D2009-1561](#) (emails sent impersonating complainant's agents). *Archer-Daniels-Midland Company v. Name Redacted*, WIPO Case No. [D2016-1618](#) (disputed domain name registered in bad faith where the respondent sent e-mails from the domain name claiming to be the complainant's officer).

The Complainant has met its burden under paragraph 4(a)(iii) 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 <archerdanielsmidlandco.com> be transferred to the Complainant.

*/William F. Hamilton/*  
**William F. Hamilton**  
Sole Panelist  
Date: May 24, 2022