

ADMINISTRATIVE PANEL DECISION

Arkema France v. Domain Administrator, Registrant of elium-composites.com / chen xiansheng, chenxiansheng
Case No. D2022-2831

1. The Parties

The Complainant is Arkema France, France, represented by In Concreto, France.

The Respondent is Domain Administrator, Registrant of elium-composites.com, United Kingdom / chen xiansheng, chenxiansheng, Singapore.

2. The Domain Name and Registrar

The disputed domain name <elium-composites.com> (the “Domain Name”) is registered with Atak Domain (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 1, 2022. On August 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 5, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 5, 2022, 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 August 5, 2022.

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 August 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 29, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on August 30, 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 French multinational producer of a wide range of chemical products for various domains such as paints, adhesives, coats, glue, fibre, resins and rough and finished materials for both general industry and consumer goods. The Complainant's ELIUM-branded thermoplastic resin, launched in 2014 and intended for use with composite materials, has won numerous industry awards.

The Complainant owns numerous trade mark registrations around the world for its ELIUM mark, including European Union Trade Mark registration no. 012993762 ELIUM in classes 1 and 17, with a registration date of November 4, 2014. The Complainant previously owned numerous domain names incorporating its mark ELIUM plus the word "composite/s" which the Complainant chose not to renew. This includes the Domain Name, which the Complainant registered in 2014 and allowed to lapse earlier in 2022, and which the Complainant used to redirect to its ELIUM product page hosted at its main domain name <arkema.com>.

The Domain Name was registered by the Respondent on May 5, 2022, shortly after the Domain Name's registration lapsed in the Complainant's hands, and the Complainant's evidence establishes that the Domain Name has subsequently been used for a website redirecting users to streaming video and online casino websites.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its well-known ELIUM mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and has been used in bad faith given that the Respondent has a history of cybersquatting and, consistent with that history, registered and has used the Domain Name in order to benefit commercially by relying on confusion with the Complainant's mark in order to attract and redirect users.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's registered ELIUM mark is wholly contained within the Domain Name as its first element with only the addition of the term "composites" and a hyphen. Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other terms does not prevent a finding of confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's un rebutted evidence establishes that its mark was registered and well known long prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainant's mark and the Complainant has certified that the Respondent's registration and use of the Domain Name is unauthorised by it.

The Respondent has provided no explanation as to why it chose the Domain Name. There is no semantic relationship or any other obvious connection between the Domain Name and the content to which it has resolved which may have imbued the Respondent's actions with *bona fides*. In the circumstances, and given what is stated below in relation to bad faith, the likelihood is that the Respondent intended to take advantage of the Complainant's trade mark and failure to renew the Domain Name to divert users for its commercial gain, which cannot confer rights or legitimate interests.

There is thus no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain, nor any others which may confer rights or legitimate interests on the Respondent. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the registration of a domain name that incorporates a well-known mark plus a term that corresponds to the Complainant's business, and the Respondent's registration of the Domain Name after the Complainant's failure to renew its domain name registration, as in this case, are indicators of bad faith ([WIPO Overview 3.0](#) at section 3.2.1).

The Complainant's evidence establishes that the Respondent has been the unsuccessful respondent in at least eleven prior UDRP cases, clearly showing a pattern of bad faith conduct. This combined with the repute of the Complainant's mark, the lack of any logical connection between the Domain Name and the content for which it has been used, and the absence of any conceivable good faith use for the Domain Name clearly points to the Respondent having sought to take advantage of the Complainant's decision not to renew the Domain Name by relying on confusion with the Complainant's mark (and erstwhile domain name) in order to attract and redirect users.

Per the panel in *BAA plc v. Spektrum Media Inc.*, WIPO Case No. [D2000-1179](#), "[i]t is hard to think of a more opportunistic exercise in cybersquatting", and "Respondent took advantage of the Complainant's failure to renew a domain name that must have been known by the Respondent to refer to [complainant's] services...with which he had no connection."

In light of the above, the Complainant has satisfied the requirements of 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 Domain Name, <elium-composites.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: September 13, 2022