

## **ADMINISTRATIVE PANEL DECISION**

Arkema France v. Katherine Westerman, arkema.com, zanaido morales, Careers-arkema.com, Brenda Harper  
Case No. D2023-4686

### **1. The Parties**

The Complainant is Arkema France, France, represented by Fross Zelnick Lehrman & Zissu, PC, United States of America (the “United States”).

The Respondents are Katherine Westerman, arkema.com, zanaido morales, Careers-arkema.com and Brenda Harper, United States.

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

The disputed domain names <career-arkema.com>, <careers-arkema.com>, <hr-arkema.com> are registered with Squarespace Domains LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 10, 2023. On November 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (CONTACT PRIVACY INC. CUSTOMER 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 16, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on November 20, 2023.

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 December 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 2, 2024.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on January 15, 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 a French industrial company and owns many trademark registrations for ARKEMA worldwide such as the following:

1. United States Trademark Registration No. 3082057, registered on April 18, 2006;
2. International Trademark Registration No. 1156827, registered on March 1, 2013;

The disputed domain name <career-arkema.com> was registered on October 30, 2023. The disputed domain name <careers-arkema.com> was registered on October 27, 2023. The disputed domain name <hr-arkema.com> was registered on October 28, 2023. The disputed domain names redirect to inactive websites.

#### **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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain names consist of the Complainant's trademark with the addition of the generic terms "hr," "career" and "careers" and the generic Top-Level Domain ("gTLD") ".com". These descriptive terms do not diminish the likelihood of confusion nor does the use of a hyphen. The Complainant's trademark is well-known. The gTLD ".com" should not be taken into consideration.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names. The Respondent has no connection or affiliation with the Complainant. The Complainant did not authorize the Respondent to use its trademark. There is no evidence that the Respondent is commonly known by the disputed domain names. There is no evidence of use or preparation for use in connection with a *bona fide* offering of goods or services nor is there evidence of noncommercial or fair use.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. The Respondent must have had knowledge of the Complainant's trademark as it is well-known in its field. The domain names' ultimate effect will be to create confusion. The disputed domain names resolve to inactive websites.

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

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

## 6. Discussion and Findings

### *Consolidation: Multiple Respondents*

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the three domain names were registered within few days from one another, they all resolve to inactive websites, their composition is identical as they consist of a word followed by "-arkema.com" and they all create the same impression, i.e., that they are connected to job opportunities within the Complainant's business.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party. In fact, on the contrary, efficiency is one of the considerations to be borne in mind by a panel as per [WIPO Overview 3.0](#) and efficiency can be achieved if these complaints are all dealt with without further delay.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

### **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.

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

Although the addition of other terms here, "hr", "career" and "careers" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names 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 names. 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 names such as those enumerated in the Policy or otherwise. Rather, there is no evidence of the use of the disputed domain names whatsoever as they resolve to inactive pages. Such non-use does not represent any *bona fide* offering nor does it confer rights or legitimate interests upon the Respondent given that the disputed domain names are inherently misleading as compared the Complainant’s trademark.

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 been aware of the Complainant’s trademark as the disputed domain names were registered 17 years after the registration of the Complainant’s trademark and a simple Google search reveals the Complainant’s business and its trademark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the concealment of the Respondent’s identity using a privacy service, the Respondent’s failure to provide any good-faith explanation for his registration and use of the inherently misleading disputed domain names and the absence of a plausible use of the disputed domain name that would be legitimate, and finds that in the circumstances of this case the passive holding of the disputed domain names 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 names <career-arkema.com>, <careers-arkema.com>, <hr-arkema.com> be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: January 19, 2024