

ADMINISTRATIVE PANEL DECISION

Archer-Daniels-Midland Company v. Name Redacted
Case No. D2024-3095

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 Name Redacted, United States.¹

2. The Domain Name and Registrar

The disputed domain name <admnutritions.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 29, 2024. On July 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 31, 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 (Unknown, Redacted for Privacy, Whois Privacy Protection Foundation) and contact information in the Complaint. The Center sent an email communication to Complainant on July 31, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 2, 2024.

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

¹Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

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 August 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 2, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 9, 2024.

The Center appointed Frederick M. Abbott as the sole panelist in this matter on September 18, 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

Complainant is a major multinational agribusiness corporation serving 200 countries, owning more than 800 facilities worldwide, employing over 38,000 people, and in 2023 with worldwide net sales at USD 93 billion. Although Complainant was originally a food and ingredients company, its business areas also now include printing and publishing; financial and business management services; fuel production, including bioethanol and biodiesel; logistics services (agricultural storage and transportation services), and; research and development services. Complainant uses the trademark ADM extensively in conducting its worldwide business operations and is well known by its suppliers and customers under that trademark. Complainant operates various commercial websites, including its main website located at “www.adm.com”.

Complainant is the owner of numerous registrations for the word, and word and design, trademark ADM in the United States and in other countries. On the Principal Register of the United States Patent and Trademark Office (“USPTO”), Complainant’s registrations for the word trademark ADM include registration number 1,386,430, registration dated March 18, 1986, in international classes (ICs) 1, 4, 12, 16, 29, 30, 31, 33, and 39, covering, inter alia, chemicals for industrial use and staple foods; registration number 2,301,968, registration dated December 31, 1999, in IC 5, covering, inter alia, vitamins and dietary supplements for human consumption, and; registration number 2,307,492, registration dated January 11, 2000, in ICs 35, 36, 40, and 42, covering, inter alia, information services in the fields of employment, finance, food processing and agriculture.

According to the Registrar’s verification, Respondent, whose name is redacted in this decision because of apparent identity theft, is the registrant of the disputed domain name. According to the Whois record, the disputed domain name was initially registered on March 19, 2024. It appears that an unidentified third party has owned and controlled the disputed domain name since its initial date of registration.

Respondent has used the disputed domain name in connection with a scheme directed toward defrauding Complainant and an agricultural products broker with whom Complainant has done business. Respondent transmitted via WhatsApp a fraudulent commercial offer by Complainant to the third-party broker to purchase a large quantity of cane sugar. That commercial offer lists the disputed domain name as the e-mail domain address of Complainant, preceded by “sales@”, and includes a false name of a purported (but fake) employee of Complainant, Complainant’s trademark logo, as well as the physical address of an actual office of Complainant in the United States. The firm offer document includes substantial detail regarding the product purportedly (but falsely) requested by Complainant. The “total price” of the falsified offer is stated as USD 32,500,000. There is no indication on the record of this proceeding that a transaction based on the fraudulent offer document was carried out.²

²The Complaint refers to Respondent’s “intent to defraud” and “attempting to place a large fraudulent order of product”.

There is no evidence on the record of this proceeding of any commercial or other relationship between Complainant and Respondent, bearing in mind that Respondent appears to have registered the disputed domain name using a falsified identity.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that it is the owner of rights in the trademark ADM and that the disputed domain name is confusingly similar to that trademark.

Complainant alleges that Respondent lacks rights or legitimate interest in the disputed domain name because: (1) Respondent has not been commonly known by the disputed domain name; (2) Respondent is not making a legitimate noncommercial or fair use of the disputed domain name, nor has Respondent made a bona fide offering of goods or services under the disputed domain name; (3) Respondent's use of the disputed domain name to engage in a scheme to defraud prima facie demonstrates a lack of rights or legitimate interests.

Complainant argues that Respondent registered and is using the disputed domain name in bad faith because: (1) Respondent has used the disputed domain name to attempt to mislead at least one third-party company to believe they have received a legitimate offer from Complainant; (2) Respondent is aiming to intentionally trade on the goodwill of Complainant's fame and reputation in violation of its prior rights and international civil and criminal laws; (3) Respondent was clearly aware of Complainant and its trademark rights when it registered and used the disputed domain name.

Complainant requests the Panel to direct the Registrar to transfer the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The Center formally notified the Complaint to Respondent at the email and physical addresses provided in its record of registration. Courier delivery to the address used by Respondent was unsuccessful as a consequence of false address information in Respondent's record of registration. There is no indication of difficulty in completing e-mail transmission of notice to Respondent. The Center took those steps prescribed by the Policy and the Rules to provide notice to Respondent, and those steps are presumed to satisfy notice requirements.

Paragraph 4(a) of the Policy sets forth three elements that must be established by a complainant to merit a finding that a respondent has engaged in abusive domain name registration and use and to obtain relief. These elements are that:

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

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

(iii) the disputed domain name has been registered and is being used in bad faith.

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 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.

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 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, here "nutritions", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on Complainant, panels have recognized that proving 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 Respondent. As such, where Complainant, as here, 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 domain name (although the burden of proof always remains on Complainant). If Respondent, as here, fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

Respondent's registration and use of the disputed domain name to attempt to defraud Complainant and a third-party broker that previously has done business with Complainant does not constitute a bona fide offering of goods or services, and does not constitute legitimate noncommercial or fair use of the disputed domain name. There is no evidence that Respondent has been commonly known by the disputed domain name, or otherwise has established any rights in Complainant's trademark.

Panels have held that the use of a domain name for illegal activity, here claimed impersonation and engaging in a scheme to defraud, can never confer rights or legitimate interests on Respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Respondent was manifestly aware of Complainant and its trademark rights when it registered and used the disputed domain name because it deliberately adopted Complainant's trademark and logo when using the disputed domain name in an attempt to defraud Complainant and a third-party broker with which Complainant had previously done business.

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 held that the use of a domain name for illegal activity, here claimed impersonation and engaging in a scheme to defraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that Complainant has established the third element of the Policy.

Because the party named as Respondent was the subject of identity theft, the Panel considers it appropriate to redact its name from this decision. The Panel will direct the Registrar to transfer the disputed domain name in accordance with the information provided in Annex 1, which annex should not be published.

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 <admnutritions.com> be transferred to Complainant.

/Frederick M. Abbott/

Frederick M. Abbott

Sole Panelist

Date: October 2, 2024