

ADMINISTRATIVE PANEL DECISION

Archer-Daniels-Midland Company v. 俊张·
Case No. D2023-3140

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 俊张·, China.

2. The Domain Name and Registrar

The disputed domain name <admb2bea.com> is registered with Global Domain Group LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 20, 2023. On July 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 11, 2023, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 16, 2023, 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 amendment to the Complaint on August 16, 2023.

The Center verified that the Complaint, together with the amendment to 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 August 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 12, 2023.

The Center appointed Andrew F. Christie as the sole panelist in this matter on September 15, 2023. 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 was founded in 1902 and was originally a food and ingredients company. It now provides a diverse range of goods and services beyond agriculture, including financial, investment, brokerage and business management services, fuel production including bioethanol and biodiesel, logistics services (agricultural storage and transportation services), and research and development services. Due to its promotion and continued use of its name and brands, the Complainant has built up goodwill and reliability in the ADM name and trademarks among its consumers.

The Complainant is the owner of numerous registrations in a range of countries for trademarks consisting of or incorporating ADM, including United States Trademark Registration No. 1386430 for the word trademark ADM (registered March 18, 1986). The Complainant maintains an extensive presence online through its main website using the domain name <adm.com>.

The disputed domain name was registered on July 4, 2023. The Complainant has provided an undated screenshot showing that the disputed domain name resolved to a webpage containing the same logo that the Complainant uses on its website (which contains the letters "ADM") and a link to download a mobile app. The Complainant attempted to download the app via the link, and has provided a second undated screenshot of the webpage that then appeared. This webpage contained a security message stating "This website is trying to download a configuration profile. Do you want to allow this?". At the date of this decision, the disputed domain name resolves to a webpage that is similar in appearance to the webpage in the Complainant's first screenshot, a log-on page that demands a telephone number and a password, with the ADM mark displayed in the top-center of the page.

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 made the following contentions, among others, to establish that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The disputed domain name completely incorporates the Complainant's ADM trademark. The "adm" letters of the disputed domain name are clearly the most prominent and recognizable portion of the disputed domain name. The inclusion of "b2bea" does nothing to distinguish the disputed domain name from the ADM trademark. Merely incorporating an arbitrary group of characters in the disputed domain name cannot negate its confusing similarity with the ADM trademark. Upon information and belief, the disputed domain name was deliberately selected in order to appear as a domain name that is legitimately associated with the Complainant, thereby actually increasing the confusing similarity between the disputed domain name and the ADM trademark.

The Complainant made the following contentions, among others, to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent is not, and has never been, commonly known, either as a business, an individual, or an organization, by the disputed domain name. Any rights or legitimate interests in the disputed domain name are negated by the Respondent's attempt to present its fraudulent website and app as that belonging to the Complainant, through the unauthorized use of the ADM trademark in the disputed domain name. The Respondent is attempting to mislead the public to believe that whatever apparent value the Respondent is offering through their fraudulent website and app is affiliated with the Complainant, which in turn tarnishes the ADM trademark. The Respondent does not use and has not made preparations to use the disputed domain name with a

bona fide offering of goods or services. The Complainant has not licensed or permitted the Respondent to use its ADM trademark or to register the disputed domain name.

The Complainant made the following contentions, among others, to establish that the disputed domain name was registered and is being used in bad faith. The Respondent prominently and illicitly displays the Complainant's name and ADM trademark on the website resolving from the disputed domain name, for the sole purpose of portraying the Complainant as the source of a fraudulent mobile app. The Respondent is attempting to intentionally trade on the goodwill of the Complainant's famous name, trademarks, business reputation, and online presence via the disputed domain name, which is in violation of the Complainant's prior rights and international civil and criminal laws. Given the worldwide fame of the Complainant's trademark and the company itself, and the Respondent's use of the Complainant's intellectual property and branding, the Respondent was certainly aware of the Complainant's rights in the ADM trademark and company name prior to registering the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Once the generic Top-Level Domain ("gTLD") ".com" is ignored (which is appropriate in this case), the disputed domain name consists of the Complainant's registered word trademark ADM together with the characters "b2bea". The Complainant's trademark is clearly recognizable within the disputed domain name. The additional terms do not avoid a finding of confusing similarity of the disputed domain name with the Complainant's trademark. Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Respondent is not a licensee of the Complainant, is not otherwise affiliated with the Complainant, and has not been authorized by the Complainant to use its ADM trademark. The Respondent has not provided any evidence that it has been commonly known by, or has made a *bona fide* use of, the disputed domain name, or that it has, for any other reason, rights or legitimate interests in the disputed domain name.

The evidence provided by the Complainant shows that the disputed domain name has been used to resolve to a webpage displaying the Complainant's logo, at which is provided a link to access an app. Given the confusing similarity of the disputed domain name to the Complainant's trademark, the use of the Complainant's logo on the webpage resolving from the disputed domain name, the absence of any relationship between the Respondent and the Complainant, and the risk of implied false affiliation with the Complainant, the Respondent's use of the disputed domain name is neither a *bona fide* use nor a legitimate noncommercial or fair use.

The Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the Respondent has not rebutted this. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The disputed domain name was registered decades after the Complainant first used and registered its ADM trademark. It is inconceivable that the Respondent registered the disputed domain name ignorant of the existence of the Complainant's trademark, given that the disputed domain name consists of the Complainant's trademark with the mere addition of non-distinguishing characters, and that the Respondent

used the disputed domain name to resolve to a webpage displaying the Complainant's logo. Given the Respondent's lack of rights or legitimate interests in the disputed domain name and the confusing similarity of the disputed domain name to the Complainant's trademark, any use of the disputed domain name by the Respondent almost certainly implies an affiliation with the Complainant that does not exist. The Respondent's registration of the disputed domain name in these circumstances is a bad faith registration.

Furthermore, the evidence on the record provided by the Complainant indicates that the Respondent has used the disputed domain name in an attempt to attract, apparently for commercial gain, Internet users to a website by creating confusion in the minds of the public as to an association between the website and the Complainant. The Respondent's use of the disputed domain name in this manner is a bad faith use

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, <admb2bea.com>, be transferred to the Complainant.

/Andrew F. Christie/

Andrew F. Christie

Sole Panelist

Date: September 29, 2023