

ADMINISTRATIVE PANEL DECISION

Arm Limited v. Privacy Department, IceNetworks Ltd.
Case No. D2023-4210

1. The Parties

The Complainant is Arm Limited, United Kingdom, represented by Demys Limited, United Kingdom.

The Respondent is Privacy Department, IceNetworks Ltd., Iceland.

2. The Domain Name and Registrar

The disputed domain name <arm-ipo.net> is registered with Internet Domain Service BS Corp (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 10, 2023. On October 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 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 (Domain Admin, Whois Privacy Corp.) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 20, 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 amended Complaint on October 23, 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 October 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2023. The Respondent did not submit any formal response. The Respondent sent email communications to the Center on October 23, 2023 and November 14, 2023. On November 14, 2023, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on November 23, 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 following facts are undisputed.

The Complainant is a company incorporated in November 1990 in the United Kingdom. The Complainant's name is derived from the initial letters of "Advanced RISC Machines", and it was originally structured as a joint venture between Acorn Computers, Apple Computer and VLSI Technology. As a large semiconductor IP company, the Complainant designs sophisticated electronic products, including computer processors, graphics processors, digital memories and peripheral hardware and supplies software, development tools for computer hardware, and provides software and consultancy services. It employs over 6,000 staff, operating from offices in more than nineteen territories around the world. The Complainant's processors are used, e.g., as the main Central Processing Unit ("CPU") for mobile telephones, including those manufactured by Apple, HTC, Nokia, Sony Ericsson, and Samsung. The Complainant's products are included in over 225 billion devices. The Complainant operates a website at the "www.arm.com".

The Complainant is the owner of a large global portfolio of registered trademarks for the word mark ARM, including the United Kingdom trademark with registration number 2000006 and a registration date of January 29, 1999, a European Union trademark with registration number 001112986 with a registration date of June 8, 2000 and a United States of America trademark with registration number 2332930 and a registration date of March 21, 2000, all for various goods, including goods in class 9.

The disputed domain name was registered on July 10, 2023.

Since the disputed domain name came to the Complainant's attention it resolved to a website which purports to be endorsed with the Complainant and displays information relating to a purported initial public offering (IPO) relating to the Complainant. At the time of this decision, the disputed domain name resolved to a parked 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.

Notably, the Complainant contends the following.

The website associated with the disputed domain name closely mirrors the look and feel of the Complainant's own website and keeps referring to the Complainant (namely, "Arm Holdings"). The Complainant also operates a holding company within its corporate structure, which is named and registered as "Arm Holdings". Reinforcing the claim to be endorsed with the Complainant the Respondent's website presents the Complainant's founding story and offers investment opportunities with the Complainant without making it clear to Internet users that the website is not operated or authorized by the Complainant.

The Respondent's website invites users to "[j]oin the digital revolution with Arm Holdings, a major player in semiconductor and software design" and to "[r]egister for Arm Holdings IPO Details and Possible Pre-Listing Trading" by submitting their personal details, including their name, email address and phone number. The

website also asks users for details of their proposed “investment amount,” with a dropdown offering selections up to EUR 500,000.

The website does not contain any disclaimers or make clear the relationship (or, more accurately, non-relationship) between the Parties. The Respondent is not authorized by, associated with or endorsed by the Complainant. The disputed domain name’s zone file is configured with Mail eXchanger (“MX”) records, which means it can be used for email communication. The Complainant’s agent wrote to the Respondent on September 25, 2023, which led to the exchange of several email messages. After receiving the Complainant’s agent’s letter, the Respondent - namely, “Gerard” and/or “Gerald Parchridge” – noted that he was willing to sell the disputed domain name to the Complainant for EUR 5,000: “Based on the organic traffic we are currently receiving on the site I think 5,000 euros would be a fair price”.

The Respondent’s offer exceeds the Respondent’s out-of-pocket costs directly related to registration of the disputed domain name. In order to bring about a swift and amicable settlement, the Complainant’s agent offered GBP 11.00 to the Respondent in order to refund the Respondent’s out-of-pocket costs directly related to registration of the disputed domain name. However, the Respondent rejected the Complainant’s offer, noting: “I reject the offer, but thanks”.

The Respondent specifically cannot claim a legitimate “fair use” interest as the nature of the disputed domain name carries a risk of implied affiliation.

The Complainant alleges that the Respondent’s website gives the impression at first glance that it is operated or endorsed by the Complainant. This is evidenced by (1) The Respondent’s constant use of Complainant’s ARM mark throughout the website; (2) the similar appearance of the Respondent’s website compared to the Complainant’s website; (3) The Respondent’s references to Complainant outlining its history and offering to Internet users “Join the digital revolution with Arm Holdings, a major player in semiconductor and software design”.

The Respondent’s website further invites users to “Register for Arm Holdings IPO Details and Possible Pre-Listing Trading” and submit their personal details, including their name, email address and phone number.

B. Respondent

The Respondent did not formally reply to the Complainant’s contentions, but has sent emails to the Center. The first email states: “hello I am willing to sell you the domain for \$500. If not, it will never be taken down and your trademark complaint is a waste of time.” After the Complainant requested the Center to proceed, the Respondent sent an email to the Center: “Please remove us from your mailing list.”(sic).

6. Discussion and Findings

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.

Based on the available record, the Panel finds 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 Panel finds 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 IPO, 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.

Based on the available record, 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 name. 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 name such as those enumerated in the Policy or otherwise.

Certainly lacking a substantive Response, the Panel finds that the use of the disputed domain name is not connected to a *bona fide* offering, the Respondent is not being commonly known by the disputed domain name; and there is no legitimate noncommercial or fair use.

Panels have held that the use of a domain name for illegal activity, e.g., here collecting personal data and/or a possible attempt to commit fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel refers to it consideration under 6.B.

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 has been specially targeting the Complainant by impersonating a website related to the Complainant’s IPO and has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark.

Panels have held that the use of a domain name for illegal activity as also referred to under 6.B, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Respondent, although it has a clear chance to do so, has not rebutted anything the Complainant has brought forward. To the contrary the informal responses underpin the bad faith intentions of the Respondent registering and using the disputed domain name.

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

Based on the available record, 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 name <arm-ipo.net> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: December 7, 2023