

## Decision for dispute CAC-UDRP-107049

Case number **CAC-UDRP-107049**

Time of filing **2024-11-26 10:22:12**

Domain names **jobs-arkema.com**

### Case administrator

Organization **Iveta Špiclová (Czech Arbitration Court) (Case admin)**

### Complainant

Organization **ARKEMA FRANCE**

### Complainant representative

Organization **Franck CASO (IN CONCRETO)**

### Respondent

Organization **Matthew Baker (Matthew Baker)**

#### OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

#### IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following trademark registrations for the sign “ARKEMA” (the “ARKEMA trademark”).

- the International trademark ARKEMA with registration No. 847865, registered on 30 November 2004 for goods and services in International Classes 1, 2, 3, 4, 5, 16, 17, 37, 38, 39, 40, 41, 42 and 45;
- the European Union trademark ARKEMA with registration No. 004181731, registered on 9 February 2006 for goods and services in International Classes 1, 2, 3, 4, 5, 7, 9, 11, 12, 16, 17, 19, 20, 22, 25, 27, 35, 36, 37, 38, 40, 41 and 42; and
- the United States trademark ARKEMA with registration No. 3082057, registered on 18 April 2006 for goods and services in International Classes 1, 2, 3, 4, 5, 16, 17, 41, 42 and 45.

#### FACTUAL BACKGROUND

The Complainant produces a wide range of products for paints, adhesives, coats, glue, fiber, resins, rough materials and finished materials for industrial and consumer goods. It is present in 55 countries, has 151 production plants and over 21 100 employees, and its annual turnover is about EUR 9.5 billion.

The Complainant and its subsidiaries have registered the domain names <arkema.com>, registered on 21 May 2001, <arkema.info>, registered on 12 July 2004, <arkema.eu>, registered on 29 April 2006, <arkema.fr>, registered on 22 March 2006, and <arkema.us>, registered on 20 March 2006. These domain names are used to promote the Complainant's activities and products.

The disputed domain name was registered on 29 October 2024. It resolves to a blank webpage with a notice that the website is under construction and has mail exchange ("MX") records enabled.

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#### PARTIES CONTENTIONS

##### **COMPLAINANT**

The Complainant states that the disputed domain name is confusingly similar to its ARKEMA trademark, because it reproduces the trademark in its entirety with the addition of the dictionary word "jobs" which does not avoid the risk of confusion but creates an appearance that the disputed domain name is designed specifically for jobs opportunities within the Complainant's company.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it has not been licensed to use the Complainant's ARKEMA trademark or to reserve or use a domain name incorporating the same trademark.

The Complainant maintains that the Respondent is using the disputed domain name for sending fake e-mails through a fraudulent e-mail address at the disputed domain name. In these emails, the Respondent pretends to be the "Manager Human Resource [sic]" of the company "ARKEMA GLOBAL". The Complainant submits that this identification of the email sender is fraudulent and that the Respondent engages in scam, phishing and impersonation activities in an attempt to take advantage of the Complainant's rights.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, ARKEMA is not a descriptive term or a commonly used expression, but has a distinctive character, and it is unlikely that the Respondent has chosen the disputed domain name without any knowledge of the company name, domain names or the trademark of the Complainant.

The Complainant points out that the disputed domain name has been used to create messaging servers with various IP addresses as well as an e-mail address based on the disputed domain name that has been used to send e-mails to third parties with fake job offers in the Complainant's company which request their random recipients to send their personal and bank information. The Complainant maintains that this practice may adversely impact the image of the Complainant in the eyes of Internet users.

##### **RESPONDENT:**

The Respondent did not submit a Response in this proceeding.

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

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#### NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

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#### BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

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#### PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

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## PRINCIPAL REASONS FOR THE DECISION

Pursuant to the Policy, paragraph 4(a), a complainant must prove each of the following to justify the transfer of a domain name:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name was registered and is being used in bad faith.

In this case, the Provider has employed the required measures to achieve actual notice of the Complaint to the Respondent, and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: “[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name ...”

In this proceeding, the Respondent has not used the opportunity provided to it under the Rules and has not submitted a substantive Response addressing the contentions of the Complainant and the evidence submitted by it.

### **Identical or confusingly similar**

The Complainant has provided evidence and has thus established its rights in the ARKEMA trademark.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the general Top-Level Domain (“gTLD”) section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). The Panel sees no reason not to follow the same approach here, so it will disregard the “.com” gTLD section of the disputed domain name.

The relevant part of the disputed domain name is therefore the sequence “jobs-arkema”, which reproduces the ARKEMA trademark with the addition of the dictionary word “jobs”. As discussed in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the “WIPO Overview 3.0”), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional terms may however bear on assessment of the second and third elements.

Taking the above into account, the Panel finds that the disputed domain name is confusingly similar to the ARKEMA trademark in which the Complainant has rights.

### **Rights and legitimate interests**

While 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, because it was not authorized to use the ARKEMA trademark and is not commonly known under the disputed domain name. The Complainant adds that the disputed domain name has been used for the distribution of fraudulent emails containing fake job offers with the Complainant’s company and requesting their recipients to provide their personal data and bank details. Thus, 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 submitted a Response and has not provided any plausible explanation of the reasons why it has registered the disputed domain name and how it intends to use it.

In the Panel’s view, the circumstances of this case do not support a finding that the Respondent has rights and legitimate interests in the disputed domain name. It is confusingly similar to the distinctive ARKEMA trademark, and the combination of this trademark with the dictionary word “jobs” may mislead Internet users that it is related to job offerings in the Complainant’s company. The evidence submitted by the Complainant shows that an email account set up with the disputed domain name has indeed been used for the distribution of fraudulent messages with fake job offerings and requests for personal information and bank details. In the lack of any arguments or evidence to the contrary, the above leads the Panel to the conclusion that it is more likely than not that the Respondent, being aware of the goodwill of the Complainant’s ARKEMA trademark, has registered the disputed domain name targeting this trademark in an attempt to fraudulently exploit its goodwill by distributing phishing e-mails to Internet users. The Panel does not regard such conduct as giving rise to rights or legitimate interests in the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

### **Bad faith**

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The registration of the distinctive ARKEMA trademark predates by 20 years the registration of the disputed domain name. It is confusingly similar to this trademark and its composition may lead Internet users to believe that it is related to jobs opportunities within the Complainant’s company. The disputed domain name has indeed been used for the distribution of fraudulent phishing emails containing such job offerings. The Respondent has not provided any plausible explanation of its choice of a domain name and its plans how to use it.

Considering the above, the Panel finds that the Respondent has registered the disputed domain name with knowledge of the Complainant’s trademark and with the intention of taking advantage of its goodwill through phishing and other fraudulent activities.

This satisfies the Panel that the disputed domain name has been registered and used in bad faith.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **jobs-arkema.com**: Transferred

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### **PANELLISTS**

Name	<b>Assen Alexiev</b>
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DATE OF PANEL DECISION 2025-01-05

Publish the Decision

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