

**CANADIAN INTERNET REGISTRATION AUTHORITY
DOMAIN NAME DISPUTE RESOLUTION POLICY**

DECISION

Domain Name: ameco.ca

Complainant: Fluor Corporation

Registrant: Nameshield Inc.

Registrar: dot-ca-registry.ca (Burmac Business Systems Ltd)

Service Provider: Resolution Canada Inc.

Panelists: Alessandro Colonnier (Chair), David Allsebrook and Jay Josefo

A. THE PARTIES

1. The Complainant is Fluor Corporation (the “Complainant”).
2. The Registrant is Nameshield Inc. (the “Registrant”).

B. DISPUTED DOMAIN NAME & REGISTRAR

3. The disputed domain name is ameco.ca (the “Domain Name”) and the Registrar is dot-ca-registry.ca (Burmac Business Systems Ltd).

C. PROCEDURAL HISTORY

4. This is a dispute resolution proceeding initiated pursuant to the *CIRA Domain Name Dispute Resolution Policy* (the “Policy”) and the *CIRA Policies, Rules, and Procedures - CIRA Domain Name Dispute Resolution Rules* (the “Rules”). By registration of the Domain Name with the Registrar, the Registrant agreed to the resolution of this dispute pursuant to the Policy and the Rules.
5. The Complainant filed its complaint (the “Complaint”) on February 22, 2016.
6. The Registrant filed its response (the “Response”) on March 16, 2016.
7. The Complainant filed an additional submission (the “Additional Submission”); however, no date was provided.
8. On April 20, 2016, the Panel was appointed. As prescribed by the Policy, the Panel has declared to the Provider that it can act impartially and independently in connection with this matter, and that there are no circumstances known to the Panel which would prevent it from so acting.

D. CANADIAN PRESENCE REQUIREMENTS: ELIGIBILITY OF THE COMPLAINANT

9. The Panel must be satisfied that the Complainant is eligible to bring a Complaint with CIRA and fulfills one of the criteria set out in paragraph 2 of the *CIRA Canadian Presence Requirements for Registrants*, Version 1.3 (the “CPRR”).

10. The Complainant submits that it is eligible to submit its Complaint by virtue of Canadian Trademark Registration No. TMA852271 for the word mark AMECO (the “Ameco Mark”) in accordance with paragraph 2(q) of the CPRR, and by virtue of its presence in Canada.

E. THE POSITIONS OF THE PARTIES

The Complainant’s Position

11. The Complainant was founded as a construction company in 1912 and throughout the last century has grown into a Fortune 500 company, maintaining a workforce of 44,000 employees across 6 continents.
12. The Complainant has been executing work in Canada for more than 60 years, and the Complainant’s offices in Canada are involved in many small to large scale projects, typically in the oil and gas industries.
13. American Equipment Company, Inc. (“Ameco”) was founded in 1947 in the United States of America and today is a world leader in integrated mobile equipment and tool solutions.
14. In 1977 Ameco was acquired by the Complainant and by 1989 both companies had gone global. Today, Ameco is a wholly-owned subsidiary of the Complainant.
15. Ameco obtained a Canadian trademark registration for the word “AMECO” (the “Ameco Mark”) in 2000 as explained above. The Ameco Mark is well-recognized by consumers, industry peers and the broader global community. The Ameco Mark has benefitted from extensive and continuous use through extensive advertisement, promotion and protection.
16. The Complainant alleges that the Domain Name is confusingly similar with the Ameco Mark and that the Registrant does not have a legitimate interest in the Domain Name. The Complainant contends that there is no legitimate interest by virtue of common usage of the Ameco Mark, and that the very fame of the Ameco Mark is what motivated the Respondent to register the Domain Name. The Complainant further alleges that the Registrant registered the Domain Name in bad faith by using it to operate a website that features links to competing and non-competing commercial websites from which the Respondent presumably receives referral fees.
17. In its Additional Submission, the Complainant stated that during the Registrant’s response period a person acting on behalf of the Registrant contacted the Complainant to offer the Domain Name for sale. The person claimed to be holding the Domain Name for his client “Ameco Systems Consultants Inc”. The Complaint was unable to verify the relationship between the Registrant and “Ameco Systems Consultants Inc” and doubts its authenticity.
18. The Complainant has requested the transfer of the Domain Name to it.

The Registrant's Position

19. The Registrant contends that as a United States company without a Canadian trademark, the Complainant is ineligible to hold a .ca domain name. The Registrant further submits that the Complainant is not the registrant of the Ameco Mark, and that the Complainant has not presented evidence regarding the ownership of the Ameco Mark.
20. The Registrant has further stated that it is the "Nominal Registrant" for "Ameco Systems Consultants Inc." which the Registrant claims was incorporated in December 1987, well before the registration of the Ameco Mark.

F. DISCUSSION & REASONS

21. Firstly, the Panel must satisfy itself that the Complainant meets the aforementioned criteria as set out in paragraph 2 of the CPRR.
22. In this case, the Complainant is an American company with an address in Texas. However, the Complainant submits that it is eligible to submit its Complaint by virtue of the Ameco Mark in accordance with paragraph 2(q) of the CPRR.
23. The Complainant has provided the Panel with sufficient evidence to show that the registrant of the Ameco Mark is Ameco, a wholly-owned subsidiary of the Complainant. Specifically, the Complainant has provided its SEC 10-K Filing in support of this contention. The Panel accepts this relationship.
24. However, unlike in some other jurisdictions, the specific registrant of a trademark is crucial in Canada. In fact, it is well-known in Canadian jurisprudence that a trademark must be linked to a single entity. Despite the fact that Ameco (the registrant of the Ameco Mark) is a wholly-owned subsidiary of the Complainant, the Panel is not able, pursuant to long-standing Canadian jurisprudence, to accept that the Complainant and Ameco should be viewed as a single corporate entity for the purposes of paragraph 2(q) of the CPRR.
25. The Complainant requests that the Domain Name be transferred to it. As noted below, under the CIRA Registration Agreement only principals can register names in the .ca domain. Fluor Corporation is not eligible to own the Domain Name because it is not the owner of the trademark registration, does not itself enjoy or claim any goodwill in the Ameco Mark, and does not otherwise meet the Canadian presence requirements. The Panel does not have the authority to order the transfer to anyone else as per section 4.3 of the Policy, and in any event no request was made for transfer to Ameco or for cancellation of the Domain Name registration.
26. In view of the position taken above, the Panel finds that it is unnecessary to delve into the Complainant's remaining contentions; namely, that

- (a) the Registrant's Domain Name is Confusingly Similar to a Mark in which the Complainant had Rights prior to the date of registration of the domain name and continues to have such Rights; and
- (b) the Registrant has registered the domain name in bad faith as described in paragraph 3.5 of the Policy;

and the Complainant must provide some evidence that:

- (c) the Registrant has no legitimate interest in the Domain Name as described in paragraph 3.4 of the Policy.

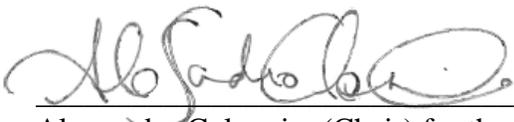
27. That said, the Panel does note the curious nature of this case in that the Registrant has identified itself as the "Nominal Registrant" for a company called "Ameco Systems Consultants Inc.". If the Panel were to consider this case on its merits, we would likely begin by referring to Decision No. DCA 1430-CIRA which concerns the registration of domain names for a third party.

CONCLUSION AND DECISION

28. The Panel finds that the Complainant does not meet the presence requirements set out in paragraph 2 of the CIRA *Canadian Presence Requirements for Registrants*, Version 1.3.

29. For this reason, the Complaint against the Domain Name ameco.ca is dismissed. This is without prejudice to the actual owner of the registration from seeking relief as or if it deems in its interest to do.

30. The Panel also finds that the Complainant did not initiate this Complaint unfairly and without colour of right to obtain the domain name from the Registrant.



Alessandro Colonnier (Chair) for the Panel
David Allsebrook
Jay Josefo

May 4, 2016.