

ADMINISTRATIVE PANEL DECISION

Perenco SA v. Garry Mall

Case No. D2023-2527

1. The Parties

The Complainant is Perenco SA, France, represented by Herbert Smith Freehills Paris LLP, France.

The Respondent is Garry Mall, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <perencjobs.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 12, 2023. On June 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 12, 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 (Redacted for privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 21, 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 June 30, 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 July 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 28, 2023.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on August 4, 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 belongs to the Perenco Group, which is one of the first independent petrol and gas companies in Europe and has over 6,000 employees. Companies within the Perenco Group operate worldwide under the name "PERENCO". The group includes many subsidiaries, including Perenco UK in the United Kingdom.

The Complainant is the owner of the European Union Trademark Registration PERENCO No. 010468361 (word and figurative mark), registered on May 9, 2012 ("PERENCO trademark").

The Complainant is also the owner of the domain names <perenco.com> and <perenco.fr>, including the PERENCO trademark.

The disputed domain name was registered on May 18, 2023. The Complainant has provided evidence showing that the disputed domain name resolved to a parking page with Pay-Per-Click ("PPC") hyperlinks that relate to the Complainant's core business, namely oil and gas. At the time of the decision, the disputed domain name resolves to an inactive website. Pursuant to the evidence provided by the Complainant, and as further described below, the disputed domain name has been used for a fraudulent email scheme.

5. Parties' Contentions

A. Complainant

On the first element of the Policy, the Complainant claims that the disputed domain name is confusingly similar to the Complainant's PERENCO trademark. The disputed domain name includes the entire PERENCO trademark, with only the addition of the generic term "jobs". The PERENCO trademark remains recognizable in the disputed domain name and the addition of the word "jobs" does not prevent a finding of confusing similarity.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has never granted, licensed or in any way authorized the Respondent to register or use the PERENCO trademark in any manner. Further, to the Complainant's knowledge, the Respondent is not commonly known by the disputed domain name and is not registered holder of any trademark on the PERENCO sign. The only uses made of the disputed domain name by the Respondent are intended to mislead Internet users for financial gain, as part of a fraudulent scheme and for a PPC parking page. First, the Respondent reserved the disputed domain name in order to create an email address, "[...].@perencjobs.com", which is used to send fake offers to work for the Complainant (or its affiliated companies). The victims are all based in the Philippines and are offered very attractive working conditions in the United Kingdom. Thus, for the purposes of this fraudulent scheme, the Respondent (or their accomplice) impersonate the Complainant (or its affiliated companies) and members of its executive committee, as well as the United Kingdom's Director for Visa, Status and Information Services. The job offers are drafted with fake Perenco letterhead and include the PERENCO trademark, the address of Perenco London offices, in the United Kingdom, and multiple references to "Perenco Oil". Further, emails are supposedly signed by Perenco SA's Human Resources Director and Perenco's Chairman. Moreover, the Respondent (or its accomplice) created a fake email address to impersonate the United Kingdom's Director for Visa, Status and Information Services. As the Center knows, the British Government's email addresses all end with "gov.uk". The Whois information sheet for the domain name <ukvisasandimmigrationonline.org> confirms that it was not registered by the British Government. Secondly, the disputed domain name resolves to a parking page with PPC hyperlinks that relate to the Complainant's core business, namely oil and gas, and will therefore create further confusion for internet users. This shows that the Respondent is seeking to gain financially from the confusing similarity of the disputed domain name with the Complainant's trademark, which does not amount to *bona fide* commercial use.

On the third element of the Policy, the Complainant asserts that the Respondent registered and used the disputed domain name in bad faith. Beyond bad faith, the Complainant claims that the Respondent has a clear intention to commit criminal offences. In view of the Complainant's reputation of the PERENCO trademark, it is indisputable that the disputed domain name has been registered deliberately by the Respondent to misappropriate the Complainant's identity and mislead the Internet users, as part of a fraudulent scheme. First, and as explained above, the Respondent created an email address comprised of the disputed domain name and used it to pretend to be an employee of the Complainant in an attempt to extract a mistaken payment from their victims. Secondly, and as also mentioned above, the disputed domain name resolves to a parking page with PPC links relating to the Complainant's core business, namely oil and gas. This is clearly intended to create further confusion amongst victims and to generate undue financial gain. Thirdly, the Respondent has taken active steps to conceal its identity through use of a privacy service, which confirms their bad faith. In any event, the mere fact that the Respondent had prior knowledge of the reputation of the Complainant's trademark is sufficient to confirm bad faith. This is undoubtedly the case here. The registered PERENCO trademark, the address of Perenco UK Limited's London office and its registration number at the United Kingdom's Companies House are reproduced in the fake job offers sent by the Respondent (or their accomplice) to their victims. Further, "perenco" is a made-up name with very high inherent distinctiveness. It cannot sensibly refer to anyone other than the Complainant as it has no other meaning. Moreover, the PERENCO trademark has been used extensively by the Complainant and the disputed domain name is highly similar to the Complainant's domain names.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

It has been a consensus view in previous UDRP decisions that a respondent's default (*i.e.*, failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

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

The Complainant, under the first requirement of paragraph 4(a)(i) of the Policy, needs to establish that the disputed domain name is identical or confusingly similar to a trademark or a service mark in which it has rights.

Section 1.8 of [WIPO Overview 3.0](#) states: "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 term(s) may however bear on assessment of the second and third elements.” Further, section 1.11.1 of [WIPO Overview 3.0](#) states: “The applicable TLD in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test”.

The Complainant is registered as the owner of a trademark containing PERENCO. Suitable evidence was submitted. Consequently, the Panel finds that the Complainant has proven that it has rights in the PERENCO trademark.

The disputed domain name contains the PERENCO trademark entirely with the addition of the term “jobs”, as well as the generic Top-Level Domain (“gTLD”) “.com”. The gTLD “.com” will be disregarded in the Panel’s consideration of confusing similarity. The Panel finds that the relevant PERENCO trademark within the disputed domain name is recognizable, so that the term “jobs” does not prevent a finding of confusing similarity.

For the reasons above, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademark, and that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The second element the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Regarding the second element of the Policy, section 2.1 of [WIPO Overview 3.0](#) states, “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”. In addition, section 2.13.1 of [WIPO Overview 3.0](#) reads: “Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.”

In this case, the Respondent did not reply to the Complainant’s contentions. According to the Complaint, the Complainant has not authorized the Respondent to use the PERENCO trademark, the Respondent is not commonly known by the disputed domain name, and the Respondent has not used the disputed domain name for a legitimate noncommercial or fair use, nor used it in connection with a *bona fide* offering of goods or services. Further, the Respondent has not attempted to justify why the disputed domain name was registered. Moreover, the Panel finds that the composition of the disputed domain name, adding the term “jobs” to the PERENCO trademark, coupled with the use of the disputed domain name resolving to a parking page with PPC hyperlinks that relate to the Complainant’s core business, namely oil and gas website, affirms the Respondent’s intention of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant, as to the origin or affiliation of the website at the disputed domain name. In addition, an illegal activity can be assumed with regard to the disputed domain name or associated email address. The Complainant has provided evidence, that the Respondent registered the disputed domain name in order to create an email address, “[...]@perencjobs.com”, which is used to send fake offers to work for the Complainant and impersonate the Complainant (or its affiliated companies) and members of its executive committee, as well as the United Kingdom’s Director for Visa, Status and Information Services, for the purposes of a fraudulent scheme.

Accordingly, the Panel finds that the Complainant has made a *prima facie* showing of the Respondent’s lack of rights or legitimate interests in respect of the disputed domain name, which has not been rebutted by the Respondent. The Panel therefore finds that the Complainant has established the second element of the Policy in accordance with paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The third element of paragraph 4(a) of the Policy requires that the Complainant demonstrate that the Respondent registered and is using the disputed domain name in bad faith.

Section 3.1 of [WIPO Overview 3.0](#) states, “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant’s mark”. Section 3.2.2 of the [WIPO Overview 3.0](#) reads: “Noting the near instantaneous and global reach of the Internet and search engines and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent’s claim not to have been aware of the complainant’s mark.” Moreover, section 3.4 of the [WIPO Overview 3.0](#) reads “Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution.”

Considering the reputation and public presence of the Complainant, it is unlikely that the Respondent had no knowledge of the PERENCO trademark. The incorporation of the PERENCO trademark within the disputed domain name as well as the fact that the disputed domain name resolved to a parking page with PPC hyperlinks that relate to the Complainant’s core business, namely oil and gas website, demonstrates the Respondent’s actual awareness of and intent to target the Complainant. The current non-use of the disputed domain name does not prevent a finding of bad faith.

Moreover, an illegal activity can be assumed with regard to the disputed domain name or associated email address. The Complainant has provided evidence, that the Respondent reserved the disputed domain name in order to create an email address, “[...]@perencojobs.com”, which is used to send fake offers to work for the Complainant and impersonate the Complainant (or its affiliated companies) and members of its executive committee, as well as the United Kingdom’s Director for Visa, Status and Information Services, for the purposes of a fraudulent scheme. In light of the lack of any rights to or legitimate interests in the disputed domain name by the Respondent and in the absence of any conceivable good faith use, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract Internet users to its website or associated email address or affect the commercial activities of the Complainant by creating a likelihood of confusion with the Complainant’s trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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 <perencojobs.com> be transferred to the Complainant.

/Christian Gassauer-Fleissner/
Christian Gassauer-Fleissner
Sole Panelist
Date: August 19, 2023