

ADMINISTRATIVE PANEL DECISION

YPF S.A. v. Internet Portfolio SA

Case No. DCO2024-0038

1. The Parties

The Complainant is YPF S.A., Argentina, represented by Berken IP, Argentina.

The Respondent is Internet Portfolio SA, Panama.

2. The Domain Name and Registrar

The disputed domain name <ypf.co> is registered with Hello Internet Corp (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 20, 2024. On May 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 28, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Whois Agent, Hello Internet Corp.) and contact information in the Complaint. On the same day, the Center sent an email communication to the Complainant 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 May 31, 2024.

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 June 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 24, 2024. The Respondent sent emails on June 5, June 11, June 17, and June 24, 2024, setting out its position on the merits and indicating that it was willing to settle the dispute. The Complainant sent an email on June 27, 2024 requesting to continue with the proceeding. Accordingly, the Center proceeded to panel appointment.

The Center appointed Matthew Kennedy as the sole panelist in this matter on July 3, 2024. 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 is an Argentine energy company founded in 1922. It is the most important oil company in Argentina, and the fifth largest in the Latin American region. It owns 92 productive blocks in Argentina and 48 exploratory blocks. The Complainant's YPF products and services are provided in more than 1,500 service stations across Argentina. It also operates the Serviclub customer loyalty program. The Complainant holds numerous Argentine trademark registrations for marks that comprise or contain the letters "YPF". According to the TM View database, to which the Complainant referred, these include Argentine trademark registrations numbers 2360161, 2360162 and 2360163, all for YPF and device, all registered on April 9, 2010, and all of which remain current. According to the evidence on record, the Complainant's earlier Argentine trademark registrations included numbers 932881, 932885, 932887, 932888, 932892, and 932894, all for YPF and device, all registered in 1978, and renewed in 1989 under registration number 1324726, which later expired.

In Panama, the Complainant holds two trademark registrations for marks that contain the letters "YPF". These are Panamanian trademark registrations number 267714 for YPF LUZ and device, registered on August 2, 2018, and number 267804 for YPF ENERGÍA ELÉCTRICA, registered on August 8, 2018. The Complainant's earliest trademark registration in Panama was number 143738 for YPF EXTRAVIDA, registered on July 13, 2005, which expired in 2015.

The Respondent was identified by the Registrar as the underlying registrant of the disputed domain name. It is a company based in Panama. Its street address and contact telephone number are in Panama. Its communications with the Center in this proceeding were sent by Mr. Pedro Ortega Jones.

The disputed domain name was registered on July 20, 2010. At the time of filing the Complaint, it resolved to a Pay-Per-Click ("PPC") links landing page, the content of which is discussed below. One of the related topics contained a link to the Complainant's official website at "www.ypf.com" that is no longer operating. At the bottom of the landing page, the following notice appeared: "The owner of ypf.co is offering it for sale for an asking price of 10000 EUR!". At the time of this Decision, the disputed domain name no longer resolves to any active webpage.

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 that the disputed domain name is identical to its YPF mark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant is the legitimate owner of the YPF trademark in Argentina, Panama, and Colombia and use of this mark by the Respondent has not been authorized in any way. The Respondent is not commonly known by the disputed domain name, is not affiliated with the Complainant in any way nor has any authorization to register the disputed domain name.

The disputed domain name was registered and is being used in bad faith. Given the content of the website associated with the disputed domain name, there are no doubts that the Respondent knew that the registration of the disputed domain name was identical to the Complainant's marks. It cannot be a

coincidence that the disputed domain name fully coincides with the well-known mark YPF and other trademarks registered in the name of the Complainant are included in the webpage content. The Respondent does not have a real interest in the disputed domain name, which was registered to be re-sold.

B. Respondent

The Respondent submits that it was not aware of the existence of the Complainant or its trademarks when the Respondent registered the disputed domain name. The disputed domain name was a three-letter domain name that was available, and the Respondent registered it without any bad faith. Although the Complainant claims to have a large presence in Argentina, the Respondent has no connection or ties to Argentina and has never been aware of any of the activities that the Complainant alleges it is undertaking for its brand. The Complainant presents a list of trademark registrations for Argentina and Colombia but domain registrations are international and the “.co” country code Top-Level Domain (“ccTLD”) has been marketed as a worldwide option for domain names. The Complainant may have a genuine claim on the YPF brand in some markets but that does not imply that in the past, no-one else in the world could have had a legitimate interest in a domain name that matches its trademark.

The disputed domain name was registered long ago. It was registered at that time without any bad faith, without any consideration of the Complainant but rather due to the interest and appeal of three-letter domain names. Any content provided on the associated landing page was not displayed intentionally by the Respondent but by an automatic system from a parking company. The disputed domain name has been removed from the parking service and will no longer display unintended results.

6. Discussion and Findings

6.1 Procedural Issue: Informal Response

The Panel notes that the Respondent replied to the Complainant’s contentions in the Respondent’s email communication of June 11, 2024. The Respondent sent a supplementary email communication on June 24, 2024, reiterating certain arguments, alleging an abuse of procedure, and offering to settle the dispute. Neither email concluded with a certification as required by paragraph 5(c)(viii) of the Rules but together they constituted, in effect, an informal Response.

Paragraphs 10(b) and (d) of the Rules provide that “[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case”; and that “[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence”.

The Panel notes that the informal Response provides the only reply to the Complainant’s contentions in this proceeding. The Complainant did not object to its admission.

Therefore, the Panel exercises its discretion to accept the informal Response and will take it into consideration according to its relevance, materiality, and weight.

6.2 Substantive Issues

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant.

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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of the YPF mark, and the YPF and device mark, for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Bearing in mind the global nature of the Internet and Domain Name System, the jurisdictions where the Complainant's YPF trademark registrations are valid is not relevant to the assessment of the first element of the Policy. See [WIPO Overview 3.0](#), section 1.1.2.

The entirety of the YPF mark is reproduced within the disputed domain name. Given that the figurative elements of the YPF and device mark cannot be reflected in a domain name, the Panel will not take those elements into account in the assessment of identity or confusing similarity. The only additional element in the disputed domain name is the ccTLD extension ".co". As a standard requirement of domain name registration, this element may be disregarded in the assessment of identity or confusing similarity for the purposes of the Policy. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7, 1.10, and 1.11.

Therefore, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Given the Panel's findings below regarding the third element of the Policy, it is unnecessary to consider the second element.

C. Registered and Used in Bad Faith

The Panel recalls that the third element in paragraph 4(a) of the Policy sets out two conjunctive requirements, which means that the Complainant must show both that the disputed domain name was registered in bad faith and that it is being used in bad faith. Failure to satisfy either requirement will result in denial of the Complaint.

As regards registration, the Complainant must demonstrate that it is more likely than not that the Respondent was aware, or should have been aware, of the Complainant or its YPF mark at the time when the Respondent registered or acquired the disputed domain name and that the Respondent intended to profit from or exploit the Complainant's trademark.

In the present case, the disputed domain name was registered in 2010, which was later than certain registrations of one of the Complainant's YPF and device marks that remain current today. The disputed domain name is identical to the textual element of that mark. However, the Respondent submits that it was not aware of the existence of the Complainant or its trademarks when the Respondent registered the disputed domain name. The Panel notes that YPF is a three-letter acronym that can have various meanings. Although it comprises the initials of the Complainant's former name ("Yacimientos Petrolíferos Fiscales", meaning "fiscal oilfields" in Spanish), "YPF" can also serve as the initials of other word combinations that have nothing to do with the Complainant. While the Complainant has acquired a very strong reputation in its YPF mark in Argentina through longstanding and widespread use, including in connection with its nationwide network of service stations and oil production operations in that country, the Respondent is based in Panama. Nothing on the record indicates that the Respondent has any connection with Argentina or any sector in which the Complainant is active. Nor is there any evidence on the record of this proceeding that the Complainant has used its mark outside its country of origin. The assertion that the Complainant engages in advertising is unsubstantiated. While the Complainant submits evidence of its trademark registrations in Panama, one has expired, the other two did not exist in 2010, and the Panel does not consider that the

Respondent should be deemed to have constructive knowledge of the contents of the Panamanian trademark register. These circumstances do not give the Panel reason to find that the Respondent knew, or should have known, of the Complainant or an YPF mark at any time.

There is minimal evidence on the record that the Complainant operates a website in connection with the domain name <ypf.com>, which is identical to the disputed domain name but for its international gTLD suffix. Although the Complainant has not asserted that it operated this website prior to the registration of the disputed domain name, the Panel has been able to verify easily from the publicly available Internet Archive that that website has been operational and displaying a YPF mark since 1996.¹ If the Panel were to infer from this circumstance that the Respondent should have been aware of the Complainant in 2010, the question remains whether the Respondent intended to profit from or exploit the Complainant's trademark. The Complainant shows that, at the time when the Complaint was filed, the Respondent was using the disputed domain name in connection with a landing page displaying PPC links and offering the disputed domain name for sale. Notarized screenshots dated May 14, 2024 annexed to the Complaint show that the PPC links related at that time to "Acciones", "Empleados", and "Cambio" (meaning shares, employees, and exchange). None of these has any specific relevance to the Complainant. However, other screenshots in the Complaint show that the PPC links have related at different times to (i) "Estacion servicio" and "Estación Argentina" (meaning "service station" and "Argentine station"); (ii) "Empleados" and "Cambio"; (iii) "Ypf Serviclub" and "Ypf Acciones" (meaning "Ypf Serviclub" and "Ypf shares"); and (iv) "Argentina", "Ypf Acciones" and "Acciones". Most of these links relate to the Complainant or its services and the evidence shows that some directed to the Complainant's website, its YPF Serviclub webpage, and another webpage where the Complainant's app could be downloaded. Given that the screenshots are undated, the Panel has consulted the publicly available Internet Archive to weigh their relevance.² The earliest screenshot of the webpage associated with the disputed domain name was taken in January 2022 and the most recent in April 2024. Each archived screenshot shows a landing page formatted to display PPC links but none shows the related topics. Even if the Panel assumes that these links sometimes targeted the Complainant, as shown in parts of the Complainant's evidence, nothing on the record shows that there were any links targeting the Complainant or an YPF mark during the first 12 years after the registration of the disputed domain name. Given the time elapsed, the Panel does not find that the evidence of PPC links on record sheds any light on the Respondent's intentions at the time of registration of the disputed domain name in 2010.

There is no evidence of the Respondent's domain name portfolio, which might show a pattern of abusive registrations from which an inference could be drawn that the disputed domain name was registered with the Complainant or its YPF mark in mind.

The Respondent submits that the disputed domain name was registered due to its interest and appeal as a three-letter domain name. Based on the record of this proceeding, the Panel finds this explanation plausible. Given that three-letter domain names are relatively rare, the Panel is ill-equipped to judge whether the Respondent's asking price of EUR 10,000 for the disputed domain name better reflects its value to the Complainant or a competitor of the Complainant as a domain name identical to the YPF mark, rather than its potential value to a wider group of third parties as a three-letter acronym.

For the above reasons, the evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark.

Therefore, the Panel finds the third element of the Policy has not been established.

¹The Panel notes its general powers articulated inter alia in paragraphs 10 and 12 of the Rules and has searched the publicly available Internet Archive (www.archive.org) in order to verify whether the Complainant operated its website since before the registration of the disputed domain name. The Panel considers this process of verification useful in assessing the merits of this dispute and reaching a decision. See [WIPO Overview 3.0](#), section 4.8.

²The Panel notes its general powers articulated inter alia in paragraphs 10 and 12 of the Rules and has searched the publicly available Internet Archive (www.archive.org) in order to verify the content of the webpage formerly associated with the disputed domain name. The Panel considers this process of verification useful in assessing the merits of this dispute and reaching a decision. See [WIPO Overview 3.0](#), section 4.8.

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. See [WIPO Overview 3.0](#), section 4.16.

The Respondent submits that the Complainant should have noticed and acted upon the registration of the disputed domain name at the time when it was registered or some time ago at least; the fact that the Complainant is acting 14 years after the disputed domain name registration shows that it is abusing the UDRP process. It seems to the Respondent that the Complainant wants the disputed domain name for its own use, and is attempting to abuse the UDRP process to forcefully and abusively get the disputed domain name transferred to it.

The Panel does not consider that mere delay between the registration of a domain name and the filing of a complaint either bars a complainant from filing such a case, nor from potentially prevailing on the merits. See [WIPO Overview 3.0](#), section 4.17. The Panel notes that the delay in this case has affected the weight given to certain evidence regarding the time at which the disputed domain name was registered, which the Complainant may have overestimated. However, the Panel does not consider that the Complaint was brought in bad faith or constitutes an abuse of process.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Matthew Kennedy/

Matthew Kennedy

Sole Panelist

Date: July 8, 2024