

ADMINISTRATIVE PANEL DECISION

Valero Energy Corporation, Valero Marketing and Supply Company v.
Super Privacy Service LTD c/o Dynadot / Na Lendorff
Case No. D2022-0527

1. The Parties

Complainant is Valero Energy Corporation, Valero Marketing and Supply Company, United States of America (“United States”), represented by Fasthoff Law Firm PLLC, United States.

Respondent is Super Privacy Service LTD c/o Dynadot, United States / Na Lendorff, United States.

2. The Domain Name and Registrar

The disputed domain name <valeroenergy.xyz> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 15, 2022. On February 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 17, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on February 18, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 21, 2022.

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 Respondent of the Complaint, and the proceedings commenced on February 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 14, 2022. Respondent did not submit any response. Accordingly, the Center notified the Parties of Respondent’s default on March 15, 2022.

The Center appointed Kariņa-Bērziņa as the sole panelist in this matter on March 16, 2022. 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

Complainant is Valero Energy Corporation, established in Texas, United States, and Valero Marketing and Supply Company, its subsidiary. These entities operate in the petroleum refining and energy production sector. Complainant is the proprietor of several registrations for its VALERO mark, including the following:

- United States Trademark No. 4216650 for VALERO (word mark), registered on October 2, 2012 for services in class 36, claiming a date of first use of December 6, 2002;
- United States Trademark No. 1314004 for VALERO (word mark), registered on January 8, 1985 for services in class 42, claiming a date of first use of February 7, 1983.

Complainant operates its primary website at the domain name <valero.com>.

The disputed domain name was registered on December 31, 2021. It does not currently resolve to an active website. The record reflects that it previously resolved to a Turkish-language website of an entity identifying itself as “Valero Enerji”.

5. Parties’ Contentions

A. Complainant

Complainant’s contentions may be summarized as follows:

Under the first element, Complainant states that it has continuously used the VALERO Mark in commerce for at least 37 years, and that it has spent millions of dollars in promoting the VALERO Mark. The VALERO Mark is distinctive and famous in the United States. The disputed domain name is confusingly similar to Complainant’s VALERO Mark.

Under the second element, Complainant states that Respondent has never been commonly known by the disputed domain name, it has not used or made demonstrable preparations to use the disputed domain name, nor is it making a legitimate noncommercial or fair use of the disputed domain name. Complainant has not licensed Respondent to use the VALERO Mark. The disputed domain name resolved to a website in the Turkish language through which Respondent purported to offer the goods and services of Complainant, which may deceive unsuspecting third parties into paying Respondent for goods and services Respondent cannot offer for sale under the VALERO Mark.

Under the third element, Complainant states that it was listed as the 32nd largest company in the United States at the time the domain name in question was registered. Respondent was aware of Complainant when it registered the disputed domain name, which prevented Complainant from registering a domain name that embodies its VALERO Mark. In addition, Respondent provided false contact information to the Registrar.

Complainant requests transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the UDRP requires Complainant to make out all three of the following:

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

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint 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”.

A. Identical or Confusingly Similar

Complainant has provided evidence establishing that it has trademark rights in the VALERO Mark through registrations in the United States. Complainant thereby satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.

In comparing Complainant’s VALERO trademark with the disputed domain name, the Panel finds that the disputed domain name is confusingly similar to it. The disputed domain name comprises Complainant’s VALERO Mark in its entirety, followed by the term “energy”. It is the consensus view of UDRP panels that, where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark. Moreover, 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. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

It is the well-established view of UDRP panels that the addition of a generic Top-Level Domain (“gTLD”), in this case, “.xyz”, to a domain name is viewed as a standard registration requirement and as such is typically disregarded under the first element (see [WIPO Overview 3.0](#), section 1.11.1, and cases cited thereunder).

Accordingly, the Panel finds that Complainant has established the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The circumstances stated in the Complaint and evidence in support set forth in the annexes thereto indicate that Respondent has no rights or legitimate interests in the disputed domain name.

The Panel finds that the evidence submitted by Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Respondent is not authorized by Complainant and is not commonly known by the Disputed Domain Name. Furthermore, the disputed domain name comprises Complainant’s mark, with the addition of a term descriptive of Complainant’s industry (namely, “energy”), thereby creating a likely risk of connection with Complainant. Such holding of the disputed domain name cannot confer rights or legitimate interests.

Pursuant to [WIPO Overview 3.0](#), section 2.1, and cases thereunder, where, as here, Complainant makes out a *prima facie* case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

Respondent, in failing to file a Response, has not provided evidence of any rights or legitimate interests. The circumstances of the case, in particular, the redirection to a website displaying Complainant's mark and purporting to offer similar services, prevent the inference of rights nor legitimate interests on the part of Respondent. See, for example, *Equinor ASA v. Joe Bright Nyarko, Apt Support Ventures* WIPO Case No. [D2021-4131](#).

Accordingly, the Panel finds that Complainant has established the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Complainant has demonstrated Respondent's bad faith registration and use of the disputed domain name. Complainant provides uncontroverted evidence that its rights in the VALERO trademark predate by several decades the registration of the disputed domain name, and that the Mark has been used continuously and widely for approximately 37 years. The disputed domain name contains Complainant's VALERO Mark together with the term "energy".

UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith on the part of the respondent. See [WIPO Overview 3.0](#), section 3.1.4. Respondent has not provided any information that would rebut this presumption.

The evidence provided by Complainant indicates that the disputed domain name resolved to a website displaying Complainant's Mark. The Panel finds this is evidence of bad faith use of the disputed domain name as Respondent seeks to cause confusion for its commercial benefit. See WIPO Overview 3.1.4.

Respondent has not presented any rational basis for registering and using the disputed domain name, nor does the Panel find that any such a basis is plausible. Such circumstances indicate bad faith in registration and use of the disputed domain name.

The Panel therefore finds that Complainant has established the third element under paragraph 4(a) 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 <valeroenergy.xyz> be transferred to Complainant.

/Ingrīda Kariņa-Bērziņa/
Ingrīda Kariņa-Bērziņa
Sole Panelist
Date: March 30, 2022