

ADMINISTRATIVE PANEL DECISION

Veolia Holding S.A., Veolia Environnement v. Privacy service provided by Withheld for Privacy ehf / pablo weed
Case No. D2022-1084

1. The Parties

The Complainants are Veolia Holding S.A., Colombia, and Veolia Environnement, France (collectively referred to as the “Complainant”), represented by Brigard & Castro, Colombia.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / pablo weed, Colombia.

2. The Domain Name and Registrar

The disputed domain name <veoliacolombia.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 March 29, 2022. On March 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 30, 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 the Complainant on April 11, 2022, 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 amendment to the Complaint on April 12, 2022.

The Center verified that the Complaint together with the amendment to the 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 April 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 30, 2022.

The Center appointed Daniel Peña as the sole panelist in this matter on June 7, 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

The Complainant is the owner of trademark registrations in several countries, including the following:

- Colombian trademark VEOLIA, registration No. 286813, registered on August 17, 2004, for services in International Class 41.
- French trademark VEOLIA, registration No. 814678, filed on November 9, 2003, for goods and services in International Classes 1, 6, 9, 11, 17, 19, 32, 35, 36, 37, 39, 40, 41, 42.

The disputed domain name was registered on February 15, 2022, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant's trademark VEOLIA is well-known, as the Complainant is a French multinational company with activities in three main areas of services and utilities traditionally managed by public authorities: water management, waste management, and energy services. As of December 2012, Veolia employed 318,376 people in 48 countries. Its revenues in that year were recorded at EUR 29.4 billion.

The Complainant's trademarks, products, and services are a staple in the energy and environmental sectors.

The Complainant's trademarks are strong and have gained recognition through their continued use in connection with Complainant's water management, waste management, and energy services, which have provided Complainant's global visibility, including in Colombia.

The disputed domain name is confusingly similar to the Complainant's trademarks as it entirely reproduces the Complainant's VEOLIA mark, and the addition of the word "colombia" does not prevent confusing similarity.

The Complainant has not licensed or otherwise permitted Respondent to use the Complainant's trademarks, the Complainant's trademark has no meaning in English or Spanish, and the Respondent is making no fair use of the disputed domain name, as it is not in use.

Taking into account the reputation of the Complainant's trademarks and the nature of the disputed domain name, it is clear that the disputed domain name was registered and used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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. Considering these requirements, the Panel rules as follows:

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the trademarks VEOLIA on the basis of its multiple trademark registrations in Colombia and other countries. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark (see, for example, section 1.7 of the [WIPO Overview 3.0](#)).

The Panel finds that the disputed domain name is confusingly similar to the Complainant’s VEOLIA marks. The Respondent’s incorporation of the Complainant’s mark in full in the disputed domain names is evidence that the disputed domain names are confusingly similar to the Complainant’s marks. The mere fact of the addition of the word “colombia” does not prevent a finding of confusing similarity with the Complainant’s marks.

Furthermore, the addition of the generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

The Panel is satisfied that the disputed domain name is confusingly similar to the Complainant’s mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights or 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 (see section 2.1 of the [WIPO Overview 3.0](#)).

The Complainant has made a *prima facie* showing that the Respondent does not have any rights or legitimate interests in the disputed domain name, particularly by asserting that the Respondent is not affiliated with it in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name. Moreover, the Respondent is not commonly known under the disputed domain name, and is not making any active use of the disputed domain name that could be considered a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use.

The Panel notes that the Respondent has not filed any response and thus did not deny the Complainant’s assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests.

Accordingly, the Panel finds that the Complainant satisfied the requirements of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered

as evidence of the registration and use of a domain name in bad faith:

(i) circumstances indicating that the respondent registered or 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 the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has 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 the respondent has engaged in a pattern of such conduct; or

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

(iv) by using the domain name, the respondent intentionally attempt to attract, for commercial gain, Internet users to its 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 the respondent's website or location or of a product or service on its website or location.

With regard to the bad faith at the time of registration, the Panel notes that it is not likely that the Respondent was not aware of the Complainant and its widely-known trademarks. On the contrary, the Panel finds that the Respondent knew or should have known of the Complainant and its rights and reputation in the VEOLIA marks at the time the disputed domain name was registered. In the Panel's view, the fact of including the expression "colombia" together with the Complainant's VEOLIA mark further supports a finding of bad faith because it coincides with the area of activity of the Complainant's subsidiary in Colombia.

Furthermore, previous UDRP panels have consistently found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive-holding. Here, the circumstances of the case, including the distinctiveness and reputation of the Complainant's VEOLIA mark (as evidenced by wide use and recognition of the Complainant's VEOLIA mark in several countries including Colombia), the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and the implausibility of any good faith use to which the disputed domain name may be put, support a finding of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)).

Considering all of the above circumstances, the Panel concludes that the disputed domain name was registered and is being used in bad faith, and that consequently, the Complainant has satisfied the requirement under 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 <veoliacolombia.com> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: June 21, 2022