

ADMINISTRATIVE PANEL DECISION

Valero Energy Corporation, Valero Marketing and Supply Company v. Patrick Dawson, Range

Case No. D2022-4674

1. The Parties

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

The Respondent is Patrick Dawson, Range, United States.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 6, 2022. On December 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 7, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 7, 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 amended Complaint on December 9, 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 the Respondent of the Complaint, and the proceedings commenced on December 20, 2022. In accordance with the Rules,

paragraph 5, the due date for Response was January 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 10, 2023.

The Center appointed Angela Fox as the sole panelist in this matter on January 16, 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 is a Texas-based energy company which has been doing business in the United States and internationally under the name and trademark VALERO for at least 39 years. It has spent tens of millions marketing and promoting its business under the VALERO mark, such that it says the VALERO mark has developed extensive goodwill and consumer recognition.

The Complainant owns numerous trademark registrations for VALERO and marks including VALERO. The Complainant relies in this Complaint on, among others, the following United States federal trademark registrations, details of which were annexed to the Complaint:

- United States Reg. No. 1,314,004 for VALERO in Class 42, registered on January 8, 1985;
- United States Reg. No. 2,560,091 for VALERO in Class 35, registered on April 9, 2002;
- United States Reg. No. 2,656,971 for VALERO in Classes 35 and 37, registered on December 3, 2002;
- United States Reg. No. 3,108,715 for VALERO in Class 35, registered on June 27, 2006;
- United States Reg. No. 3,688,322 for V VALERO in Class 40, registered on September 29, 2009;
- United States Reg. No. 2,927,757 for V VALERO in Class 4, registered on February 22, 2005.

The Complainant also owns and operates an Internet website through the domain name <valero.com>, and uses that domain name for company email addresses through which it communicates internally, with customers, vendors and the public in general.

The Domain Name <careersvalero.com> was registered on November 23, 2022. It links to a website purporting to advertise and offer jobs at the Complainant's organization, and using the Complainant's trademarks so as to masquerade as a legitimate website of the Complainant. However, the Respondent's website is not affiliated with the Complainant and the Complainant alleges that the Respondent is engaged in an elaborate, criminal scheme in which it uses the Domain Name to attract individuals interested in working for the Complainant and then collects personal identifying information from those individuals and defrauds them through a job offer scam. The Complainant annexed an email exchange using the Domain Name and a fraudulent offer letter and employment contract issued through the Respondent's website.

5. Parties' Contentions

A. Complainant

The Complainant submits that the Domain Name is confusingly similar to its earlier trademarks. The Domain Name includes the Complainant's trademark in its entirety plus the generic word "career" and a non-distinctive Top-Level Domain ("TLD").

The Complainant also submits that the Respondent has no rights or interests in the Domain Name. The Respondent has not been commonly known by the Domain Name, nor has it used or made demonstrable preparations to use it in connection with a *bona fide* offering of goods or services. It is not making a legitimate noncommercial or fair use of the Domain Name. Instead, the Complainant states that the Respondent is using the Domain Name to carry out an elaborate job offer scam, under cover of use of the.

Finally, the Complainant asserts that the Respondent intentionally registered the Domain Name for criminal gain and that its use of it in connection with the impersonation of the Complainant and the commission of a job offer scam amounts to registration and use of the Domain Name in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions and is in default. No exceptional circumstances explaining the default have been put forward. Therefore, in accordance with paragraphs 14(a) and (b) of the Rules, the Panel will decide the Complaint and shall draw such inferences as it considers appropriate from the Respondent's default..

6. Discussion and Findings

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the panel finds 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 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 has proved that it has registered trademark rights in VALERO. The Domain Name includes VALERO in its entirety, adding only the word "careers" and TLD ".com". The addition of the word "careers" does not prevent a finding of confusing similarity, and as noted in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("the WIPO Overview"), section 1.11.1, the TLD is a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The burden of proving absence of rights or legitimate interests in a domain name falls on complainants, but panels have long recognized that the information needed to prove such rights or legitimate interests is normally in the possession of respondents.

In order to avoid requiring complainants to prove a negative, which will often be impossible, UDRP panels have typically accepted that once a complainant has established a *prima facie* case that a respondent lacks rights or legitimate interests, the respondent carries the burden of producing evidence that it does indeed have such rights or legitimate interests (see, *inter alia*, *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#)). In the present case, the Complainant has put forward a *prima facie* case that the Respondent has no rights or legitimate interests in the Domain Name. There is nothing on the record in this case to indicate that the Respondent might have any rights or legitimate interests in it, nor has the Respondent

attempted to make out a case that it has. The Complainant has not authorized the Respondent to use the Domain Name, nor is there any evidence that the Respondent has ever been commonly known by it. Moreover, use of the Domain Name for a fraudulent scheme, as evidenced in the Complaint, can never confer rights or legitimate interests on the Respondent (see [WIPO Overview 3.0](#), section 2.13).

The Panel finds that the Respondent has no rights or legitimate interests in the Domain Name.

C. Registered and Used in Bad Faith

Under paragraph 4(b)(iv) of the Policy, the Panel may find both registration and use in bad faith where there is evidence that by using the domain name, a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with a 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 it.

In this case, the Complainant has annexed print-outs from the website linked to the Domain Name which purport to be the website of the Complainant. The Respondent is not authorised to use the Complainant's trademarks and has provided no explanation for this conduct. The Complainant also annexed a copy of an email exchange and fraudulent job offer and contract of employment that it supplied to a visitor to its website, purporting to offer the victim a job at the Complainant's company. All of this indicates that the Respondent registered and has used the Domain Name in the knowledge of the Complainant and its business under the VALERO trademark, and with the intention of attracting Internet users by creating a likelihood of confusion with the Complainant's registered marks, for what appears to be fraudulent gain on the part of the Respondent. Despite the gravity of the assertions against it, the Respondent has not sought to deny this allegation. The Panel finds that the Complainant has made out a case for bad faith registration and use under paragraph 4(b)(iv) of the Policy.

The Panel finds that the Domain Name was registered and has been used in bad faith.

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 Domain Name, <careersvalero.com>, be transferred to the Complainant.

/Angela Fox/

Angela Fox

Sole Panelist

Date: February 6, 2023