

ADMINISTRATIVE PANEL DECISION

Valero Energy Corporation, Valero Marketing and Supply Company v.
Godson1 Salomon
Case No. D2023-1290

1. The Parties

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

The Respondent is Godson1 Salomon, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <valerocareerdepartment.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 March 24, 2023. On March 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 27, 2023, 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 (Redacted for Privacy, Iceland) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 28, 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 March 29, 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 March 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 21, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on April 26, 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 following facts are undisputed.

The first complainant, Valero Energy Corporation, is the full owner of the second complainant, Valero Marketing and Supply Company. The second complainant is, in turn, the owner of numerous trademark registrations for the element "VALERO".

Together with its connected companies, the Complainant is the 30th largest company in the United States. As such, the Complainant is one of the largest petroleum refiners and renewable fuel producers in the world.

The Complainant is the owner of several trademark registrations comprising of the word element VALERO, including, but not limited to, the United States trademark registration for VALERO (word mark), with registration no. 1314004 and with a registration date of January 8, 1985, for services in class 42, and the United States trademark registration for VALERO (word mark), with registration no. 2656971 and with a registration date of December 3, 2002, for services in classes 35 and 37. The aforementioned trademark registrations will hereinafter also jointly be referred to, in singular, as the "VALERO Trademark".

The Domain Name was registered on July 30, 2022, and resolves to a website (the "Website"), which indicates that the Domain Name has been parked.

5. Parties' Contentions

A. Complainant

Insofar as relevant for deciding this matter, the Complainant contends the following.

The Domain Name is confusingly similar to the VALERO Trademark. More specifically, the Domain Name consists of the VALERO Trademark in its entirety to which the Respondent has added the terms "career" and "department", albeit that the Respondent introduced a clear misspelling in the second term by omitting the first letter "t".

The Respondent has no prior rights or legitimate interests in regard to the Domain Name. The Respondent is not commonly known by the Domain Name. Moreover, the Complainant has not licensed or otherwise authorized Respondent to use its VALERO Trademark. In addition to this, there is no legitimate noncommercial or fair use of the Domain Name or any preparations thereof, whereas the Respondent uses the Domain Name for a phishing scheme with which the Respondent attempts to collect personal identifying data via a job offer scam.

Furthermore, the Respondent has registered and has been used in bad faith. The Respondent registered the Domain Name with prior knowledge of the VALERO Trademark. This is because, the Respondent chose to register a Domain Name that copies the well-known trademark of the Complainant. Thus, there is no plausible explanation other than that the Respondent must have been aware of the Complainant's rights and activities and intentionally registered the Domain Name for commercial gain. In doing so, the Respondent actively prevents the Complainant from registering a domain name that is comprises its VALERO Trademark.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

- (i) the 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

Noting the burden of proof on the Complainant, the Respondent's default (*i.e.*, failure to submit a formal response) would not by itself mean that the Complainant is deemed to have prevailed. The Respondent's default is not necessarily an admission that the Complainant's claims are true. See in this regard [WIPO Overview 3.0](#), section 4.3: "In cases involving wholly unsupported and conclusory allegations advanced by the complainant, or where a good faith defense is apparent (*e.g.*, from the content of the website to which a disputed domain name resolves), panels may find that – despite a respondent's default – a complainant has failed to prove its case. However, in accordance with paragraph 14(b) of the UDRP Rules, panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case *e.g.*, where a particular conclusion is *prima facie* obvious, where an explanation by the respondent is called for but is not forthcoming, or where no other plausible conclusion is apparent."

A. Identical or Confusingly Similar

The Complainant must demonstrate that it has rights in a trademark or service mark and, if so, the Domain Name must be shown to be identical or confusingly similar to that mark.

The Complainant has shown that it has rights in the VALERO Trademark.

As set out in [WIPO Overview 3.0](#), section 1.7, the first element functions primarily as a standing requirement. The threshold test for confusing similarity between the Domain Name and the VALERO Trademark involves a relatively straightforward comparison.

In light of the foregoing, the Panel finds that the Domain Name is confusingly similar to the VALERO Trademark, whereas the Domain Name consists of the VALERO Trademark in its entirety, to which the Respondent has merely added the terms "career" and "department", the latter term albeit misspelled as the first letter "t" has been left out.

Therefore, the VALERO Trademark is clearly recognizable in the Domain Name. The addition of the terms "career" and "department" does not prevent a finding that the Domain Name is confusingly similar to the VALERO Trademark.

Therefore, the Panel is satisfied that the first element of the Policy is met.

B. Rights or Legitimate Interests

The Panel has carefully considered the factual allegations that have been made by the Complainant and are supported by the submitted evidence.

In particular, the Respondent has failed to offer the Panel any of the types of evidence set forth in paragraph 4(c) of the Policy from which the Panel might conclude that the Respondent has rights or legitimate interests in the Domain Name, such as:

- (i) use or preparation to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services prior to notice of the dispute; or
- (ii) being commonly known by the Domain Name (as an individual, business or other organization) even if the Respondent has not acquired any trademark or service mark rights; or
- (iii) making legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

First of all, there is no evidence that “valerocareerdepartment” is the Respondent’s name or that the Respondent is commonly known under the aforementioned name. Moreover, the Complainant ascertained that it has never licensed or otherwise authorized the Respondent to register or use the VALERO Trademark, or to apply for or use any domain name incorporating the VALERO Trademark.

The Domain Name at the time of filing the Complaint resolved to a parked page. Consequently, the Panel considers that the Respondent is not making use of the Domain Name in connection with a *bona fide* offering of goods or services or for noncommercial or fair use purposes. The Panel also considers the fact that the Respondent has not put forward any evidence that would support a claim that the Respondent has used or made preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

To the contrary, the Complainant put forward clear evidence that the Respondent is using the Domain Name for a phishing scheme, being an email exchange between the Respondent and a third party. Attached to the email the Respondent sent the recipient an offer letter as well as a letter of agreement, which the recipient in turn needed to fill in. In doing so, the Respondent has intentionally attempted to defraud the recipient into providing their personal identifying information.

Moreover, as the email implies that the recipient is offered a job at the Complainant’s company, and the email is signed with the name of an actual employee (responsible for human resources) of the Complainant, the Respondent has effectively impersonated the Complainant or suggested affiliation with or endorsement by the Complainant. This is further supported by the fact that the email includes the actual physical address of the Complainant and refers to the Complainant with “we” and “our company”.

In accordance with section 2.13.1 of the [WIPO Overview 3.0](#), the use of a domain name for illegitimate activity, such as phishing or the impersonation of a complainant, can never confer rights or legitimate interests on a respondent.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in relation to the Domain Names.

Therefore, the Panel is satisfied that the second element of the Policy is met.

C. Registered and Used in Bad Faith

The Panel finds that the Domain Name was registered and is being used in bad faith.

The Panel refers to its considerations under section 6.2.B and adds the following.

In light of the evidence filed by the Complainant, the Panel finds that the Complainant’s VALERO Trademark and activities are well-known. In addition, the email correspondence originating from an email address linked to the Domain Name, prominently mentions the Complainant’s corporate name, clearly displays the

Complainant's trademarks, and is supposedly signed by an actual employee of the Complainant and thus purports to be sent by the Complainant. It is, thus, beyond any doubt that the Respondent had the Complainant in mind when registering and using the Domain Name.

In addition, the Respondent sent out forms to recipients asking them to fill in personal identifying details as part of a job application. This is strong evidence that the Domain Name is being used for phishing activities. Considering the fact that phishing is considered a *per se* illegitimate activity such behavior is, in accordance with section 3.1.4 of the [WIPO Overview 3.0](#), manifestly considered evidence of bad faith.

The fact that the Domain Name does not resolve to an active website does not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 [WIPO Overview 3.0](#)).

Lastly, the Respondent has been hiding behind a privacy shield. In accordance with section 3.6 of the [WIPO Overview 3.0](#), this supports a finding of bad faith. Upon disclosure of the personal information of the Respondent, the Complainant asserted that the address and contact information of the Respondent appear to be false and, as such, do not represent an existing address.

Finally, although the lack of a formal or substantive response by the Respondent, as such cannot by itself lead to the conclusion that there is registration and use in bad faith, this nonetheless supports for the Panel to find that the registration and use of the Domain Name by the Respondent is in bad faith.

Therefore, the Panel is satisfied that the third element of the Policy is met.

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, <valerocareerdepartment.com> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: May 5, 2023