

ADMINISTRATIVE PANEL DECISION

Ipiranga Produtos de Petróleo S.A. v. Danilo Silveira, LGTI Tecnologia da Informacao Ltda

Case No. D2023-2426

1. The Parties

The Complainant is Ipiranga Produtos de Petróleo S.A., Brazil, represented by Kasznar Leonardos Advogados, Brazil.

The Respondent is Danilo Silveira, LGTI Tecnologia da Informacao Ltda, Brazil

2. The Domain Name and Registrar

The disputed domain name <ipiranga.cloud> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 5, 2023. On June 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 6, 2023, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 7, 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 June 7, 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 June 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 4, 2023.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on July 21, 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 Brazilian-based oil company, which owns several trademarks with the term “ipiranga,” in Brazil, for example:

Trademark/Reg. no.	Class	Status	Registration date
IPIRANGA I & design 819099830	4	Registration in force.	August 30, 2005
I IPIRANGA & design 820507970	1	Registration in force.	October 28, 2003
I IPIRANGA & design 825586208	35	Registration in force.	June 23, 2015
IPIRANGA I & design 819099821	4	Registration in force.	August 30, 2005
IPIRANGA 812395778	Local class 4.10	Registration in force.	November 22, 1988
IPIRANGA 812819438	35	Registration in force.	June 25, 1991

The Complainant is also the owner of the domain names <ipiranga.com.br>, registered on May 23, 1996; and <portal.ipiranga>, registered on November 6, 2017. Both domain names resolve to active websites.

The disputed domain name was registered on April 5, 2023. Before filing the Complaint, the disputed domain name resolved to a pay-per-click parking page. At the time of filing the Complaint, the disputed domain name resolved to an inactive webpage.

5. Parties' Contentions

A. Complainant

The Complainant argues that the trademark IPIRANGA appears in its entirety in the disputed domain name. As a result, the disputed domain name is to be considered identical to the Complainant's trademarks and domain names.

The Complainant also alleges that the addition of the extension “-cloud” does not prevent the finding of confusion and similarity with its trademarks and domain names. On the contrary, the extension “-cloud” directly refers to “virtual services,” “cloud computing” or other “computer software” services that may be provided by the Complainant.

The disputed domain name has resolved to a pay-per-click webpage, and currently resolves to an inactive webpage. Therefore, there is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods and services.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and it is only matter of time before the disputed domain name is used in connection with a commercial offering. That being the case, the Complainant finds that the disputed domain name will be used

to take unfair advantage of the Complainant's rights for commercial gain, since Internet users and the Complainant's clients would inevitably associate the content of the disputed domain name with the Complainant's prior trademarks and domain names.

Moreover, the Complainant stresses that the Respondent is not commonly known by the name "ipiranga."

According to the Complainant, it has prior rights over the trademark IPIRANGA, and has not authorized the registration and use of the disputed domain name, nor the use of its trade name and trademarks by the Respondent.

The Respondent is not affiliated to or authorized by the Complainant to use or register the disputed domain name.

The Complainant's intellectual property rights for IPIRANGA predate the registration of the disputed domain name.

The Complainant also argues that the Respondent was aware of the Complainant's rights and has clearly registered the disputed domain name to target the Complainant's trademark, and that the registration of the disputed domain name was conducted in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (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.

Based on the evidence and arguments submitted, the Panel's findings are as follows:

A. Identical or Confusingly Similar

The evidence demonstrates that the Complainant is the owner of several trademark registrations and domain names with the element IPIRANGA.

The disputed domain name incorporates the Complainant's trademark IPIRANGA in its entirety, with the addition of the generic top-level domain ("gTLD") ".cloud". The addition of this gTLD does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark, since IPIRANGA remains recognizable in the disputed domain name, and for the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD; see section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the complainant's mark. See section 1.7 of the [WIPO Overview 3.0](#).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is identical to the Complainant's trademark IPIRANGA.

B. Rights or Legitimate Interests

The Respondent has not submitted a response to the Complaint.

There is no evidence that the Respondent has any authorization to use the Complainant's trademarks or to register domain names containing the Complainant's trademark IPIRANGA.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services.

The nature of the disputed domain name itself is such to carry a risk of implied affiliation that cannot constitute fair use, with the addition of the gTLD related to the Complainant's activities ".cloud" See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel finds that the non-use of the disputed domain name, which incorporates the Complainant's trademark IPIRANGA in its entirety does not correspond to a *bona fide* use of the disputed domain name under the Policy.

For the above reasons, the Panel finds that the Complainant has made out an un rebutted *prima facie* case and the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademark IPIRANGA is registered by the Complainant in Brazil and has been used for years. The Complainant's trademarks predate the registration of the disputed domain name.

The Complainant's trademark is distinctive and has strong online visibility. The disputed domain name reproduces the Complainant's trademark IPIRANGA, and the Respondent has no rights or legitimate interests in the disputed domain name.

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. According to the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), *supra* "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith" (see also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#)).

In addition, while it appears that the disputed domain name has not been used in connection with an active website (subject to the previous use for a pay-per-click webpage), given the totality of the circumstances present here, the passive holding of the disputed domain name does not prevent a finding of bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainant's trademark by misleading Internet users to believe that the disputed domain name belongs to or is associated with the Complainant.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and 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 disputed domain name <ipiranga.cloud> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: August 18, 2023