

ADMINISTRATIVE PANEL DECISION

NuStar Energy L.P., Chris Rulon v. Name Redacted
Case No. D2023-2500

1. The Parties

The Complainant is NuStar Energy L.P., Chris Rulon, United States of America, represented by Jackson Walker, LLP, United States of America.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <nustarpermiancrude.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 8, 2023. On June 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 12, 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 (Redacted For Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 13, 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 16, 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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent’s name from this decision. However, the Panel has attached as Annex 1 to this decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 11, 2023. On June 22, 2023, the Center received an email from a third-party stating that they had received the written notice, that their identity had been used in the registration of the disputed domain name, and stated that “We do not know these [domain] names and are not aware of having any connection with them”. The Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on July 12, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on July 17, 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.

Because the Panel has determined that the above-mentioned disputed domain name was most likely registered by a third party *i.e.*, involves potential identity theft, the Panel has redacted the Respondent's name from this Decision as stated in the Annex hereto.

4. Factual Background

The Complainant is a publicly traded master limited partnership and is one of the largest independent liquids terminal and pipeline operators in the United States of America (“U.S”). The Complainant has 9,500 miles of pipeline and 63 terminal and storage facilities that store and distribute crude oil, refined products, renewable fuels, ammonia, and specialty liquids throughout the U.S. and Mexico.

The Complainant owns numerous registrations for its trademark NUSTAR, *inter alia*, the U.S. Trademark Registration No. 3395530, registered on March 11, 2008, and the Canadian Trademark Registration No. TMA822969 registered on April 26, 2012.

The Complainant also conducts its online activities through its website “www.nustarenergy.com”.

The disputed domain name was registered on April 1, 2022.

The disputed domain name is linked to a website that presents as being that of “NuStar Permian Crude Logistics, LLC”.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the NUSTAR trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the word “permiancrude” is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The mark NUSTAR is associated with the Complainant, since the trademark NUSTAR has been extensively used to identify the Complainant and its products and services. The Respondent has not been authorized by the Complainant to use this trademark, is not commonly known by the disputed domain name, and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services.

The disputed domain name was registered in bad faith because it is obvious that the Respondent had

knowledge of both the Complainant and its well-known trademark NUSTAR at the time it registered the disputed domain name.

The disputed domain name is being used in bad faith because it is linked to a website that presents as being that of “NuStar Permian Crude Logistics, LLC”, which is a subsidiary of the Complainant, and because MX records have been set up and are being used to actively perpetrate a fraudulent scheme to confuse the Complainant’s current and prospective customers into paying fraudulent invoices. In fact, the Complainant has received one complaint from a confused third party about suspicious emails from the “[...]@nustarpermiancrude.com” email address.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the 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.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trademark registrations for its NUSTAR trademark.

The Panel notes that the disputed domain name incorporates the NUSTAR trademark in its entirety. The addition of the term “permiancrude” does not prevent a finding of confusing similarity under the Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.8.

The addition of the generic Top-Level Domain (“gTLD”) “.com” in the disputed domain name is a standard registration requirement and as such is disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant’s mark NUSTAR.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states that it has not authorized the Respondent to use the trademark NUSTAR and that before notice of the dispute, there is no evidence of the Respondent’s use, or demonstrable preparation to use, the disputed domain name in good faith. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to

provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

Furthermore, the nature of the disputed domain name, comprising the Complainant's trademark and the term "permiancrude", which is also included in the name of one of the Complainant's subsidiaries, carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its NUSTAR trademark is well known in the energy sector.

In the view of the Panel, noting that the Complainant's trademark predates the registration of the disputed domain name and the nature of the disputed domain name, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's well-known trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The Complainant has also shown that the disputed domain name is being used in bad faith because it is linked to a website that presents as being that of "NuStar Permian Crude Logistics, LLC", which is a subsidiary of the Complainant, and because MX records have been set up and have actually been used to actively perpetrate a fraudulent scheme to confuse the Complainant's current and prospective customers into paying fraudulent invoices. The Panel thus finds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion as to the source, sponsorship or affiliation of its website in the sense of paragraph 4(b)(iv) of the Policy.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been 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 disputed domain name <nustarpermiancrude.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: July 20, 2023