

## **ADMINISTRATIVE PANEL DECISION**

**QatarEnergy v. leifeng**

**Case No. D2023-2913**

### **1. The Parties**

The Complainant is QatarEnergy, Qatar, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is leifeng, Hong Kong, China.

### **2. The Domain Name and Registrar**

The disputed domain name <qatarenergy.shop> is registered with Alibaba.com Singapore E-Commerce Private Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 7, 2023. On July 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 10, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 10, 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 July 13, 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 July 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 4, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on August 8, 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, QatarEnergy (formerly Qatar Petroleum) is a Qatari state owned corporation founded in 1974 which operates all oil and gas activities in Qatar. The Complainant's activities, undertaken directly or indirectly through subsidiaries and joint ventures, encompass the entire spectrum of the oil and gas value chain locally, regionally and internationally. As of December 31, 2020, the Complainant has incorporated numerous subsidiaries, joint ventures, associates and joint operations in different countries throughout the world, including China, Singapore, the United States of America, Canada, Liberia, United Kingdom, Netherlands (the Kingdom of), or Italy.

The Complainant changed its name to "QatarEnergy" on October 11, 2021 and this rebranding was widely reported by the press, as per Annex 6 to the Complaint.

As of 2018, the Complainant was the third largest oil corporation in the world by oil and gas reserves. In 2021, the Complainant was listed as the no. 2 among the "Top 10 Unlisted Companies in Qatar" by Forbes Middle East.

The Complainant owns trademark registrations containing the term "QatarEnergy", in stylized forms, throughout the world, such as the following:

- the Austrian trademark registration number 316677 for the word QATARENERGY, stylized and with device, filed on November 11, 2021 and registered on December 17, 2021, covering goods and services in Nice classes 1, 4, 37, 42; and
- the European Union trademark registration number 018573702 for the word QATARENERGY, stylized and with device, filed on October 11, 2021 and registered on April 19, 2022, covering goods and services in Nice classes 1, 4, 37, 39, 40, 41, 42, 43 and 45.

To maintain a strong presence online, the Complainant is active on various social media forums and is the owner of domain names incorporating the QATARENERGY mark such as, for instance, <qatarenergy.qa> and <qatarenergy.com.qa>.

The disputed domain name <qatarenergy.shop> was registered on May 1, 2023, and at the time of filing the Complaint, it did not resolve to an active website.

According to Annex 4 to the Complaint, the disputed domain name was used in connection with a phishing scheme, namely the disputed domain name resolved to a website containing "login" and "password" fields allowing an account to be created and, upon login, it led to a malicious platform which invited users to recharge their account using a cryptocurrency. Once the account was recharged, it supposedly produced and income for the users. Such website also displayed a reproduction of the Complainant's logo, as well as a photo of the Complainant's headquarters.

According to Annexes 12-14 to the Amended Complaint, the Respondent's email address is linked to at least three other trademark abusive domain names targeting the rights of various energy companies.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical to its trademark QATARENERGY which is formed of the textual dominant element and a small drop-shaped logo; that the

Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith for a website impersonating the Complainant and used for fraudulent activities.

## **B. Respondent**

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

## **6. Discussion and Findings**

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Furthermore, the composition of the disputed domain name carries a high risk of implied affiliation. The disputed domain name used to resolve to a website impersonating the Complainant in a furtherance of a fraudulent scheme set up to deceitfully elicit payments. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark particularly because the Complainant's trademark, trade name, domain names were registered starting 2021 and the Complainant's rebranding to QATARENERGY, in October 2021, was widely reported by the international press.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] 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 [the respondent's] website or location" is evidence of registration and use in bad faith.

Given that the disputed domain name reproduces exactly the Complainant's trademark and the website operated under the disputed domain name displayed the Complainant's logo, photo of official headquarters and was used for defrauding Internet users, indeed in this Panel's view, the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain. This activity may also disrupt the Complainant's business and tarnish its trademark.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

According to the evidence provided in the Complaint and unrefuted by the Respondent, prior to the present proceeding, the disputed domain name was resolving to a phishing website, impersonating the Complainant and deceiving Internet users in an attempt to obtain illicit financial gain.

Further, paragraph 4(b)(ii) of the Policy provides another circumstance of bad faith registration and use when the respondent registered the disputed domain name in order to prevent the owner of the trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct.

The Panel finds, based on the evidence provided as Annexes 12-14 to the Amended Complaint, that registering at least another three domain names reflecting third parties' famous trademarks, can be considered a pattern of abusive conduct and registration of the disputed domain name in bad faith.

At the time of filing the Complaint, the disputed domain name resolved to an inactive page.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

The Panel notes the distinctiveness and international reputation of the Complainant's trademark; the composition of the disputed domain name; the Respondent's failure to provide a response in this procedure; the Respondent's use of a privacy service and provision of inaccurate contact details in the Whois, and finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

## 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 <qatarenergy.shop> be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: August 15, 2023