

ADMINISTRATIVE PANEL DECISION

Minerva S.A. v. peter paul
Case No. D2023-3580

1. The Parties

The Complainant is Minerva S.A., Brazil, represented by Opice Blum, Brazil.

The Respondent is peter paul, United States of America.

2. The Domain Name(s) and Registrar(s)

The disputed domain name <minervasfood.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 24, 2023. On August 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name(s). On August 25, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name(s) which differed from the named Respondent (NameSilo, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 28 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 amendment to the Complaint on August 28, 2023.

The Center verified that the Complaint together with the amendment to the 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 September 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 28, 2023.

The Center appointed Andrea Mondini as the sole panelist in this matter on October 5, 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, Minerva SA, is a Brazilian corporation listed on the stock exchange, which was established in 1992 and is active in the production and export of meat products.

The Complainant owns numerous trademark registrations for MINERVA, in stylized forms in many jurisdictions throughout the world, including:

- Brazil Trademark Registration No. 826080120, MINERVA in stylized, registered on December 5, 2017;
- Brazil Trademark Registration No. 909630798, MINERVA, registered on October 2, 2018;
- Brazil Trademark Registration No. 840373821, MINERVA FOODS in stylized, registered on May 7, 2019;
- International Trademark Registration No. 1756839, MINERVA FOODS, registered on June 13, 2023.

The Complainant also holds the domain name <minervafoods.com> which resolves to its official website.

The disputed domain name was registered on August 7, 2023.

The record shows that the disputed domain name resolves to a parking page named NameSilo and that the disputed domain name was used to send fraudulent emails.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the "MINERVA" and "MINERVA FOODS" trademarks in which the Complainant has rights, because it incorporates these trademarks in their entirety, and the inversion of the letter "s" from the end of the element "FOODS" to the end of the element "MINERVA" is not sufficient to avoid confusing similarity. It is also well established that the generic Top-Level Domain ("gTLD"), such as ".com," in a disputed domain name is disregarded.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The "MINERVA" and "MINERVA FOODS" trademarks are associated with the Complainant, since the "MINERVA" and "MINERVA FOODS" trademarks has been extensively used to identify the Complainant and its 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. To the contrary, the Respondent used the disputed domain name to send fraudulent emails to potential customers of the Complainant attempting to deceive them into believing that they were interacting with the Complainant and sending them fraudulent invoices.

The disputed domain name was registered and is being used in bad faith because it is evident that the Respondent had knowledge of both the Complainant and its well-known trademarks at the time of registering the disputed domain name and because the use of the disputed domain name to send fraudulent emails attempting to deceive potential customers into believing that they were interacting with the Complainant constitutes use in bad faith.

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 has trademark rights by virtue of the registrations it owns for its "MINERVA" and "MINERVA FOODS" trademarks.

The Panel notes that the disputed domain name incorporates these trademarks in their entirety. The inversion of the letter "s" from the end of the element "FOODS" to the end of the element "MINERVA" of the trademark MINERVA FOODS 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 gTLD ".com" in the disputed domain name is a standard registration requirement and is therefore 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 marks.

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

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use these trademarks, that the Respondent is not commonly known by the disputed domain name, and that 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. Furthermore, the Complainant has submitted evidence that the Respondent used the disputed domain name to send fraudulent emails to potential customers of the Complainant attempting to deceive them into believing that they were interacting with the Complainant and sending them fraudulent invoices.

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 did not provide a Response and thus failed to provide any explanations as to any rights or legitimate interests.

Furthermore, the nature of the disputed domain name, comprising the Complainant's trademarks carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

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

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 “MINERVA” and “MINERVA FOODS” trademarks are well-known.

In the view of the Panel, noting that the Complainant’s trademarks predate the registration of the disputed domain name and the fact that the Respondent sent fraudulent invoices pretending to be the Complainant, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant’s well-known trademarks. In the circumstances of this case, this is evidence of registration in bad faith.

The Complainant has shown that the Respondent used the disputed domain name to send fraudulent emails to potential customers of the Complainant attempting to deceive them into believing that they were interacting with the Complainant. The use of the disputed domain name to send fraudulent emails clearly constitutes use in bad faith (See [WIPO Overview 3.0](#), section 3.4).

The Panel thus finds that the disputed domain name was registered and is being 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 <minervasfood.com> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: October 20, 2023