

## **ADMINISTRATIVE PANEL DECISION**

Perenco SA v. Martinex Enterprises, careers-perenco  
Case No. D2023-4867

### **1. The Parties**

The Complainant is Perenco SA, France, represented by Herbert Smith Freehills Paris LLP, France.

The Respondent is Martinex Enterprises, careers-perenco, India.

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

The disputed domain name <careers-perenco.com> (the “Domain Name”) is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 22, 2023. On November 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 23, 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 (Anonymous) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 27, 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 November 30, 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 December 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 27, 2023.

The Center appointed Gregor Vos as the sole panelist in this matter on January 8, 2024. 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 part of the Perenco Group, which is a European petrol and gas company.

The Complainant is the owner of European Union Trade Mark registration No. 10468361 for the mark

P E R E N C O , registered on May 9, 2012 (the “Trademark”).

Further, it is undisputed that the Complainant and its affiliated companies are the holder of the domain names <perenco.com> and <perenco.fr>.

The Domain Name was registered on April 3, 2023. While drafting the decision, the Domain Name does not resolve to an active webpage. According to the evidence provided by the Complainant, the Domain Name has been used for sending fake recruitment emails.

#### 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 Domain Name.

Notably, the Complainant first contends that the Domain Name is confusingly similar to its Trademark, since it incorporates the Trademark in its entirety with the mere addition of the term “careers”.

Second, the Complainant states that the Respondent has no rights or legitimate interests in the Domain Name. The Respondent has never received authorization from the Complainant to use the Trademark in the Domain Name and is not commonly known by the Domain Name. Also, the Respondent has used the Domain Name to set up email addresses to send fake recruitment emails.

Finally, according to the Complainant, the Respondent was undoubtedly aware of the Trademark when registering the Domain Name and is using the Domain Name for illegal activities by impersonating the Complainant in an attempt to obtain personal data of consumers.

##### B. Respondent

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

#### 6. Discussion and Findings

##### 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.

The Complainant has shown rights in respect of the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Trademark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, the term “careers”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

Further, panels have held that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. The Panel finds that the Complainant has provided sufficient evidence that the Respondent registered the Domain Name to create email addresses that have been used to send fake recruitment emails and to impersonate the Complainant for the purposes of such a fraudulent scheme.

In addition, the Domain Name carries a risk of implied affiliation by incorporating the Trademark in its entirety with the addition of the term “careers”. [WIPO Overview 3.0](#), section 2.5.1.

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.

First, panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds that the fact that the Domain Name currently does not resolve to an active webpage does not prevent a finding of bad faith in the circumstances of this proceeding. Although 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, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness of the Complainant’s Trademark, the composition of the Domain Name, and the fact that the Respondent

has failed to respond to the Complaint. The Panel finds that in the circumstances of this case the passive holding of the Domain Name does not prevent a finding of bad faith under the Policy.

Second, panels have held that the use of a domain name for illegal activity, here creating email addresses that have been used to send fake recruitment emails while impersonating the Complainant for the purposes of a fraudulent scheme, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Domain Name constitutes bad faith under the Policy.

Finally, the Trademark is registered by the Complainant and has been used for many years. The Complainant's rights to the Trademark predate the registration date of the Domain Name. In light of the distinctiveness of the Trademark, the Panel agrees with the Complainant that it is not conceivable that the Respondent chose the Domain Name without knowledge of the Complainant's activities and its Trademark under which the Complainant is doing business. The distinctiveness of the Trademark of the Complainant has been confirmed by earlier UDRP panels (see, e.g., *Perenco SA v. Garry Mall*, WIPO Case No. [D2023-2527](#)). This is further reinforced by the fact that the Respondent attempts to impersonate the Complainant for illegal activities and that the Respondent uses the Trademark for such activities.

The Panel finds that the Complainant has established the third element of the Policy.

## **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 <careers-perenco.com> be transferred to the Complainant.

*/Gregor Vos/*

**Gregor Vos**

Sole Panelist

Date: January 22, 2024