

## **ADMINISTRATIVE PANEL DECISION**

**Tyco Fire & Security GmbH v. Vivek Anil George, PMG GROUP**  
**Case No. D2024-0133**

### **1. The Parties**

The Complainant is Tyco Fire & Security GmbH, Switzerland, represented by BrandIT GmbH, Switzerland.

The Respondent is Vivek Anil George, PMG GROUP, India.

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

The disputed domain names <sabroe-compressors.com> and <york-compressors.com> are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 12, 2024. On January 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 17, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 18, 2024, 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 January 26, 2024.

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 January 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 20, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on February 22, 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 a Swiss limited liability company which, following various corporate transactions, holds the trademarks YORK and SABROE used since the 1880s and 1890s, respectively, to brand refrigeration, heating, ventilation, and air conditioning products sold worldwide. The Complainant is a subsidiary of Johnson Controls International plc, which employs approximately 105,000 people in 2,000 locations around the world, including locations in India and the United Arab Emirates (UAE). The Complainant or its affiliates have operated websites at “www.york.com” since 1995 and at “www.sabroe.com” since 2001.

In addition to claiming common law rights in YORK and SABROE, the Complainant holds numerous trademark registrations for YORK and SABROE as word marks and as composite marks featuring those names with figures, respectively, of a snowflake and a polar bear. These include the following registrations:

Mark	Jurisdiction	Registration Number	Registration Date	Goods or Services
YORK (word)	UAE	002571	October 9, 1993	Refrigeration equipment, IC 7
YORK (word)	International Trademark (multiple designations)	1449057	July 6, 2018	Air conditioners, refrigerators, furnaces, related equipment, IC 7, 9, 11
SABROE (word)	International Trademark (multiple designations)	706841	January 15, 1999	Air compressors, refrigerators, related equipment, IC 7, 11
SABROE (word and design)	International Trademark (multiple designations)	820005	February 18, 2004	Machines and apparatus, IC 7, 11
SABROE (word)	UAE	91879	March 15, 2007	Refrigeration equipment, IC 11

The Registrar reports that both of the disputed domain names were registered on November 8, 2023, in the name of a domain privacy service. After receiving notice of the Complaint in this proceeding, the Registrar identified the underlying registrant as the Respondent Vivek Anil George of the organization PMG GROUP, listing an address in India, with a Gmail contact email address.

The disputed domain name <sabroe-compressors.com> does not resolve to an active website at the time of this Decision. The Complaint attaches a screenshot showing that it formerly resolved to a landing page with third-party, pay-per-click (“PPC”) advertising links, including those advertising air conditioning products that compete with the Complainant’s offerings.

The disputed domain name <york-compressors.com> resolves to an English-language website (the “Respondent’s website”) selling “York Compressors & Parts”, with contact information for two companies, “Sahara air conditioning & refrigeration trading L.L.C.” in Dubai, UAE and “Sahara Hvac/R International Limited” in London, United Kingdom. The Respondent’s website also refers to a showroom operated by “Uranus Aircondition and Refrigeration” in Dubai. There is no mention of the Respondent Vivek Anil George.

The Respondent’s website displays names and photos of some of the Complainant’s compressors and parts, but it also clearly suggests that the Respondent deals in other brands as well:

“We are proud to introduce ourselves as one of the leading suppliers of HVAC products. ... Our specialty is in supplying high quality HVAC and related mechanical systems, equipment and products from reputable international manufacturers... We have products from leading brands, we have the parts, tools, and materials you need to get the job done right ... We are the main distributor and supplier for HVAC related products and spare parts for numerous esteemed companies worldwide.”

The following notice appears as a footer on each page:

*“The names and part numbers referenced herein are trade marks for YORK company. Part numbers, images and logo of this organization is used for cross reference and interchange purposes only.”*

In nearly identical circumstances, the Complainant obtained the transfer from the Respondent in 2023 of the domain names <yorkcompressors.com> and <sabroecompressors.com>, both registered in 2019. See *Tyco Fire & Security GmbH v. Vivek Anil George, PMG Group*, WIPO Case No. [D2023-3361](#) (“*Tyco I*”). The Respondent registered the similar domain names at issue here less than a month after the decision was rendered in *Tyco I*. The Complainant discovered this activity shortly thereafter and sent the Respondent a cease-and-desist letter through the Registrar on December 8, 2023. The Respondent did not reply, and this proceeding followed.

## **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 names.

Notably, the Complainant contends that its YORK and SABROE trademarks are clearly recognizable, respectively, in the disputed domain names. The Complainant contends further that the Respondent has no rights or legitimate interests in the disputed domain names, as it has no permission to use the marks and is not known by corresponding names. Even if the Respondent were actually a reseller of genuine YORK goods, which is not established, it would not meet the criteria commonly accepted for nominative fair use by resellers, as the Respondent’s website does not accurately disclose its relationship with the trademark holder and refers to sales and support for other manufacturers’ goods as well.

The Complainant observes that the Respondent plainly was aware of the Complainant, having recently lost a similar UDRP proceeding between the same parties, and used similar domain names to engender confusion in the same manner and divert consumers to its own website for commercial gain, in the case of one of the disputed domain names, or to PPC advertising in the other.

### **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) and the respondent has no rights or legitimate interests in respect of the domain name;
- (iii) and the domain name has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

## 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the YORK and SABROE marks are reproduced, respectively, within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The addition of the term "compressors" does not prevent a finding of confusing similarity between the disputed domain names and the marks 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 disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

The Respondent has no legitimate interests in allowing one of the disputed domain names to be used merely for PPC advertising, and the Respondent also has not come forward with a claim for legitimacy as a reseller in using the other disputed domain name for its own compressor parts website. As the panel found in *Tyco I* on similar facts, the Respondent would fail the common *Oki Data* test (see *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#)) for nominative fair use by a reseller even were it established that the Respondent was selling genuine YORK parts. This is because the Respondent also offers sales and service for other manufacturers' goods and does not accurately disclose its relationship with the Complainant. This compounds the confusion of the inherently misleading disputed domain names. See [WIPO Overview 3.0](#), section 2.8.

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 Respondent was fully aware of the Complainant and its marks, having very recently lost a UDRP proceeding, *Tyco I*, involving domain names differing from those at issue here only by the absence of a hyphen. The Respondent then engaged in the same activity with respect to the disputed domain name <york-compressors.com>, using it to advertise the Respondent's compressor parts business, which also sells and services other manufacturers' goods, and allowing the other disputed domain name, <sabroe-compressors.com>, to be used for PPC advertising for competitors. Both are examples of bad faith as described in the Policy, paragraph 4(b)(iv):

“by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.”

Moreover, the Respondent shows a pattern of such behavior, not only in *Tyco I* but in an earlier case with another manufacturer in the same industry, as seen in *Danfoss A/S v. Vivek Anil George, PMG Group*, WIPO Case No. [D2022-0691](#). This pattern of conduct, along with the Respondent's failure to reply to correspondence and UDRP complaints, evinces a disregard for the rights of others and further supports an inference of bad faith within the meaning of the Policy.

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 disputed domain names <sabroe-compressors.com> and <york-compressors.com> be transferred to the Complainant.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: March 16, 2024