

## **ADMINISTRATIVE PANEL DECISION**

**Petróleo Brasileiro S.A. – Petrobrás v. Abe, Abe**  
**Case No. D2024-2363**

### **1. The Parties**

The Complainant is Petróleo Brasileiro S.A. – Petrobrás, Brazil, represented by Vaz e Dias Advogados & Associados, Brazil.

The Respondent is Abe, Abe, United States of America (“United States”).

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

The disputed domain name <petrobrasvip.com> 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 June 10, 2024. On June 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 12, 2024, 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 (ALIBABA.COM SINGAPORE E-COMMERCE PRIVATE LIMITED) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 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 the same date.

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 June 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 10, 2024.

The Center appointed Daniel Peña as the sole panelist in this matter on July 12, 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 mixed-capital company founded in 1953 and active in the areas of energy, exploration, production, refining, marketing and transportation of oil, natural gas and derivatives.

The Complainant owns more than 40 registrations for trademark PETROBRAS before the Brazilian Trademark Office ("BTO"), among others, the following:

- Brazilian Trademark Registration No. 002709007, Class 1, registered on July 12, 1962.
- Brazilian Trademark Registration No. 200065254, Class 5, registered on July 12, 1962.
- Brazilian Trademark Registration No. 003676935, Class 10, registered on February 1, 1978.
- Brazilian Trademark Registration No. 004101260, Class 1, registered on December 3, 1971.
- Brazilian Trademark Registration No. 004101570, Class 4, registered on December 10, 1981, and on July 12, 2016, recognized as a renowned trademark by the BTO.

The Complainant also owns trademark registrations for its PETROBRAS mark in other jurisdictions, such as United States Registration No. 3676471, in Classes 1, 4, 35, 37, and 42, registered on September 1, 2009.

The disputed domain name was registered on May 3, 2024, and it does not resolve to any active website.

#### **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.

The Complainant is currently the world leader in the development of advanced technology for oil exploration in deep and ultra-deep waters, being known as a multinational company of extreme renown and recognition in its area of operation.

The disputed domain name reproduces the word PETROBRAS in its entirety, thus it confusingly resembles the Complainant's trademark.

The Complainant verified that the Respondent is not commonly known as PETROBRAS, does not own any registered trademarks or trade names corresponding to the disputed domain name.

The Complainant also clarifies that no license or authorization of any kind has been given by the Complainant to the Respondent to use the trademark PETROBRAS.

The Respondent has no prior rights or legitimate interests in the disputed domain name, given that the Complainant's registrations for trademark PETROBRAS in Brazil and abroad.

The Respondent is not using the disputed domain name, does not have any rights to exploit the PETROBRAS name, and the fact that the Respondent's identity is deliberately concealed, indicate that the disputed domain name was registered as a form of passive holding.

The Respondent registered and marketed the disputed domain name in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules requires that the Panel's decision be made "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". It has been a consensus view in previous UDRP decisions that a respondent's default (i.e., failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true, see section 4.3 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and (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**

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the PETROBRAS trademarks on the basis of its multiple trademark registrations in Brazil.

A trademark registration prima facie satisfies that the rights in the trademark belong to the Complainant, see [WIPO Overview 3.0](#), section 1.2.1. It has also been established by prior UDRP panels that when a domain name incorporates a trademark in its entirety, it will normally be considered that the domain name is confusingly similar to that trademark. Such finding is confirmed, for example, within section 1.7 of [WIPO Overview 3.0](#). The Respondent's incorporation of the Complainant's mark in full in the disputed domain name is sufficient to establish that the disputed domain name is confusingly similar to the Complainant's marks. The mere addition of the term "vip" to the Complainant's trademark PETROBRAS does not prevent a finding of confusing similarity of the disputed domain name with the Complainant's marks.

Furthermore, the addition of the generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded under the first element.

The Panel is satisfied that the disputed domain name is confusingly similar to the Complainant's mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

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

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must prove that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant bears the burden of proof in establishing this requirement. In view of the difficulties inherent in proving a negative and because the relevant information is mainly in the possession of the Respondent, it is enough for the Complainant to establish a prima facie case which, if not rebutted by relevant evidence from the Respondent will lead to this ground being set forth.

The Panel finds that the Complainant has made a prima facie case showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not commonly known under the disputed domain name, is not affiliated with the Complainant in any way and that the Complainant never authorized the Respondent to use its trademark as part of the disputed domain name.

The Panel also finds that the nature of the disputed domain name carries a risk of implied affiliation with the Complainant's trademarks (see [WIPO Overview 3.0](#), section 2.5.1).

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

Accordingly, the Panel finds that the Complainant satisfied the requirements of paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a disputed domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of the complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location.

With regard to the bad faith at the time of registration, the Panel notes that "petrobras" is not a common or descriptive term, but a renowned trademark in and to which the Complainant has demonstrated it has rights. The disputed domain name reproduces, without any authorization or approval, the Complainant's registered trademarks.

Moreover, the disputed domain name is inherently misleading as it reproduces the Complainant's PETROBRAS trademark together with the term "vip", which in abbreviated form might refer to "very important person or people". It is at the least very unlikely that the Respondent was not aware of the existence of the Complainant's trademarks when registering a domain name that entirely reproduces the Complainant's renowned trademark.

The disputed domain name does not resolve to any active website. The bad faith registration and use of the disputed domain name is also supported by the fact that the Respondent has not denied, or even responded to, the assertions of bad faith made by the Complainant in this proceeding.

Furthermore, the Panel finds that the lack of active use of the disputed domain name in the circumstances of the case does not prevent a finding of bad faith. On the contrary, this Panel agrees with the Complainant's assertion that in the case of domain names containing well-known earlier marks, passive holding can constitute an indication of bad faith (see section 3.3 of the [WIPO Overview 3.0](#)). In the circumstances, the Panel finds that the passive holding of the disputed domain name does not prevent a finding of bad faith..

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and used the disputed domain name in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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 name <petrobrasvip.com> be cancelled.

*/Daniel Peña/*

**Daniel Peña**

Sole Panelist

Date: July 23, 2024