

## **ADMINISTRATIVE PANEL DECISION**

**Petróleo Brasileiro S.A. - Petrobrás v. Christopher Randolph**  
**Case No. D2024-2626**

### **1. The Parties**

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

The Respondent is Christopher Randolph, United States of America (“United States”), self-represented.

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

The disputed domain name <petrobras.earth> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2024. On June 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 27, 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 (GoDaddy.com, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 28, 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 July 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. The Respondent did not submit any response in due date. Accordingly, the Center notified the Respondent’s default on July 22, 2024. The Respondent sent email communications to the Center on July 22, 2024. The Center sent an email to the parties on July 24, 2024, to ask them if they wished to suspend the proceeding to explore settlement options. On the same date, the Complainant informed the Center that they did not wish to explore these options, preferring to continue with the UDRP proceeding.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on July 25, 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 in this administrative proceeding is Petróleo Brasileiro S.A. - Petrobrás, a Brazilian company. 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 is a leader in the development of advanced technology for oil exploration in deep and ultra-deep waters.

The Complainant is the owner of numerous trademark rights composed of or including the denomination PETROBRAS. The Complainant has included in the Complaint a list of such trademarks registered in jurisdictions around the world, including a trademark registration for PETROBRAS in Brazil which obtained a status of high renown in the year 2016 (Brazil trademark registration no. 004101570, registered on December 10, 1981) and a trademark registration for PETROBRAS in the United States (United States Registration No. 3676471, registered on September 1, 2009).

The Complainant has also included in the Complaint a list of domain name registrations composed of or including "petrobras", such as <petrobras.com.br> - registered on June 14, 1996, and <petrobras.com> - registered on March 05, 1996.

The disputed domain name was registered on December 5, 2021.

At the time of the Decision, the disputed domain name resolves to a Registrar parked page displaying the following message stating "this website is hosted for free, courtesy of GoDaddy.com" followed by a button "acquire this domain". At the time of the filing of the Complaint, the disputed domain name resolved to a Registrar parked page displaying sponsored links to investment platforms.

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

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

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

Notably, the Complainant contends that the disputed domain name is identical to the Complainant's PETROBRAS trademark, that the Respondent has no rights or legitimate interests in the disputed domain name, and particularly that the Respondent registered and used the disputed domain name in order to capitalize on and take advantage of the renown of the Complainant's trademark, aiming to unlawfully profit through this use.

Accordingly, the Complainant requests cancellation of the disputed domain name.

##### **B. Respondent**

The Respondent did not submit a formal response in due time. The Respondent did however send two informal emails on July 22, 2024 (i.e. one day after the time limit fixed by the Rules for his response), claiming that he was not properly served, nor properly notified of the Complaint, and that in the United States there are proper procedures to follow to put a Party on notice, and in this case these were not followed. The

Respondent further questioned the jurisdiction of the Center to administer the dispute, and said he had registered the disputed domain name for several years and that he has never used it.

In the merits of the Complaint, the Respondent says he has read the Complaint and found no point that has been violated.

## **6. Discussion and Findings**

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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. Procedural Matters**

The Respondent has contested the jurisdiction of the Center to administer this case and the means of notification of this proceeding in his email to the Center of July 22, 2024. As set forth in the introduction of paragraph 4 of the Policy, however, the Respondent has agreed to be bound by administrative proceedings under the UDRP by entering into the registration agreement which incorporates the UDRP by reference with GoDaddy (Paragraph 6 of the Registration Agreement: “6. DISPUTE RESOLUTION POLICY You agree to be bound by our current Dispute Resolution Policy. This policy is incorporated herein and made a part of this Agreement. You can view the Uniform Domain Name Dispute Resolution Policy online. [...]”) when he registered the disputed domain name. Further, the Panel notes that the Registrar has confirmed that the UDRP applies to this disputed domain name. As such, and as an ICANN-accredited provider, the Center has jurisdiction to administer this case. Moreover, having reviewed the communication records in the case, the Panel finds not only that the Center has discharged its responsibility under the Rules, paragraph 2(a), “to employ reasonably available means calculated to achieve actual notice to [the] Respondent”, including efforts to provide notification to the email and physical address provided in the registration of the disputed domain name – but that the Respondent has been actively engaged in the process, thereby removing any doubt that he was in fact properly notified. Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules, and the Supplemental Rules, and without the benefit of a formal response from the Respondent.

### **B. 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 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.

The Panel finds the first element of the Policy has been established.

### **C. 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 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. In fact, the Respondent, affirming that he had never used the disputed domain name, did not show or claim that he had any rights to or legitimate interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

### **D. 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.

Further, it should be noted that Panels have consistently found that the mere registration of a domain name that is identical to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

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.

The disputed domain name reproduces, without any authorization or approval, the Complainant’s registered and well-known PETROBRAS trademark, and is almost identical to the Complainant’s prior domain name <petrobras.com>.

Taking into account the composition of the disputed domain name (identical the Complainant’s trademark), the Panel is satisfied that the Respondent most likely knew of the Complainant’s trademark PETROBRAS when it registered the disputed domain name (see *Les Parfumeries Fragonard v. Thanh Van Pham*, WIPO Case No. [D2020-2920](#) (“The Respondent registered the disputed domain name long after the Complainant first used and registered its FRAGONARD mark, and long after the mark had become well recognized around the world. Inclusion of the Complainant’s precise mark in the disputed domain name suggests that the Respondent was aware of the Complainant’s prior rights”).

In any case, a simple search on the web for “petrobras”, which has no generic meaning, would have immediately revealed the existence of the Complainant, its activity, and rights. It therefore appears very unlikely that the Respondent registered the disputed domain name without being aware of the Complainant’s trademark.

Panels have found that the non-use of a domain name (including a parked page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, and the composition of the disputed domain name, 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.

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 name <petrobras.earth> be cancelled.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: August 7, 2024