

ADMINISTRATIVE PANEL DECISION

Petróleo Brasileiro S.A. - Petrobrás v. Misha Kezyak
Case No. D2024-2765

1. The Parties

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

The Respondent is Misha Kezyak, Afghanistan.

2. The Domain Name and Registrar

The disputed domain name <petrobras-inv.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 8, 2024. On July 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 9, 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 (Namecheap, Inc.) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 10, 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 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 2, 2024.

The Center appointed Gareth Dickson as the sole panelist in this matter on August 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 a mixed-capital company founded in 1953, and is engaged in the energy sector with activities encompassing exploration, production, refining, marketing, and transportation of oil, natural gas, and derivatives. It concerns itself with advanced technology for deep and ultra-deep water oil exploration and has grown significantly over the years.

The Complainant has been operating under the trade marks PETROBRÁS (the “Mark”), since its inception in 1953. It owns a number of trade mark registrations for the Mark, including Brazilian Trade Mark registration number 004101570, registered on December 10, 1981, and whose status as a trade mark of high repute was recognized by the Brazilian Trade Mark Office on July 12, 2016.

The disputed domain name was registered on August 22, 2023. The Respondent is not making any active use of the disputed domain name, which resolves to a page without any content. Based on the case records, there is no evidence of the disputed domain name being used for email addresses.

5. Parties’ Contentions

A. Complainant

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

The Complainant argues that the disputed domain name is confusingly similar to the Mark, as it incorporates the Mark in its entirety, and that the inclusion of the term “-inv” in the disputed domain name is an abbreviation for “investment”.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as there is no evidence of the Respondent’s use of the disputed domain name in connection with a bona fide offering of goods or services. Furthermore, the Complainant contends that the Respondent has not been commonly known by the disputed domain name.

The Complainant alleges that the disputed domain name was registered and is being used in bad faith, and relies on the Respondent’s passive holding of the disputed domain name, which it says suggests an attempt to prevent the Complainant from reflecting the Mark in a corresponding domain name.

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

Furthermore, the entirety of the mark is reproduced within the disputed domain name., save that the “Á” in the Mark has been replaced with an “A”. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here a hyphen and the term “inv”, may bear on assessment of the second and third elements, the Panel finds the addition of such characters in the instant Complaint does not prevent a finding of confusing similarity between the disputed domain name and the mark 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 a 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. The Complainant specifically asserts that it has not licensed or otherwise authorized the use of the Mark or the promotion of the Complainant by the Respondent, and the Respondent’s name does not correspond in any way to any part of the disputed domain name.

The Panel further notes the composition of the disputed domain name, which carries a risk of implied affiliation with the Complainant. [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.

In the present case, the Panel notes that the Respondent registered the disputed domain name decades after the Complainant acquired rights in the Mark, the notoriety of the Complainant’s mark, that there is no evidence that the Respondent has rights or legitimate interest in respect of the disputed domain name, and that the Respondent has not participated in the administrative proceedings.

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.

Panels have found that the non-use of a domain name (including a blank or “coming soon” 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 and “high repute” of the Mark, 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 also notes that the Respondent has concealed its contact details by using a privacy service as well as provided an incorrect address to the Registrar upon registration of the disputed domain name, which further supports a finding of bad faith in the case.

Accordingly, 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-inv.com> be cancelled.

/Gareth Dickson/

Gareth Dickson

Sole Panelist

Date: September 9, 2024