

## **ADMINISTRATIVE PANEL DECISION**

Yara International ASA v. default default  
Case No. D2024-4320

### **1. The Parties**

The Complainant is Yara International ASA, Norway, represented internally.

The Respondent is default default, Colombia.

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

The disputed domain name <yaracolombia.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 21, 2024. On October 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 22, 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 (Alcides Baena) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 22, 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 amendment to the Complaint on October 22, 2024.

The Center verified that the Complaint together with the amendment to the 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 October 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 14, 2024.

The Center appointed Alistair Payne as the sole panelist in this matter on November 19, 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 publicly listed company based in Norway that supplies chemicals and agricultural fertilisers and other industrial equipment. It owns various trade mark registrations for its YARA mark including United States trade mark registration 3635650, registered on June 9, 2009 and Colombian trade mark registration 4006933, registered on January 28, 2005.

The disputed domain name was registered on January 18, 2024, and resolves to a blank page. The Complainant has submitted evidence to support its allegation that the disputed domain name has been used without authorisation as the base for an email address which appears to have been used by the Respondent masquerading as if it is the Complainant to try to obtain the supply of electrical cables from the Complainant's suppliers.

#### **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.

Notably, the Complainant contends that it owns registered trade marks as noted above and that the disputed domain name wholly incorporates the YARA mark which it says is clearly the distinctive element of the disputed domain name. It submits that the addition of the country name "Columbia" only serves to heighten the impression of confusing similarity by leading people to believe falsely that the disputed domain name resolves to the website of Yara International in Colombia.

The Complainant further submits that the Respondent has no rights or legitimate interests in the disputed domain name and that it has not been authorised by the Complainant to use its trade marks. The Complainant asserts that it has carried out some investigations prior to filing this Complaint and has not found any evidence to support a case that the Respondent had good faith intentions in registering the disputed domain name. It says that the disputed domain name has solely been registered in a fraudulent scheme against the Complainant and its customers.

The Complainant has submitted evidence of its customers having been fraudulently solicited by email from an email address based on the disputed domain name with requests to supply electrical cables for development projects in Colombia. One of the Complainant's customers, who received such an email is, according to the Complainant, a recognised engineering company based in Cartagena, Colombia in the electrical, instrumentation, mechanical, thermal and civil insulation areas of activity in the industrial, port and commercial sectors. The Complainant notes that the purpose of this email might be to obtain sensitive information from the companies that the Complainant has contacted, or to get the companies to send goods for which they will not be paid, or to harm the goodwill of the Complainant. In any event says the Complainant the purpose is in order to disrupt the Complainant's business and to harm its goodwill and that this amounts to evidence of registration and use in bad faith.

##### **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 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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, in this case the country name "Colombia" may bear on the assessment of the second and third elements, the Panel finds the addition of such a term 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 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.

Panels have held that the use of a domain name for illegitimate activity, here, claimed to be impersonation or passing off for the potential purposes of phishing or of soliciting goods fraudulently, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

As described in more detail under Part C below the Respondent has used the disputed domain name fraudulently as if it was the Complainant to solicit goods from the Complainant's suppliers. This amounts to illegal activity which cannot confer rights or legitimate interests in the Respondent.

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 Respondent only registered the disputed domain name in January 2024 many years after the date of the Complainant's United States and Colombian trade mark registrations. Based on the manner in which the disputed domain name has been used for an email address in relation to which the Respondent, or someone authorised by it, has in April 2024 sought to fraudulently order electrical cables in the name of the Complainant, it appears more likely than not that the Respondent was well aware of the Complainant's business and mark when it registered the disputed domain name.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances which 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 held that the use of a domain name for illegitimate activity, here, claimed to be impersonation or passing off for the potential purposes of phishing or of soliciting goods fraudulently 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 disputed domain name constitutes bad faith under the Policy.

In this case the Complainant has submitted evidence of its customers having been fraudulently solicited by email, from an email address based on the disputed domain name, to supply electrical cables for development projects in Colombia. One of these customers is, according to the Complainant, an engineering company based in Cartagena, Colombia. The Complainant has suggested that the purpose of this email might have been to obtain sensitive information from the companies that the Complainant has previously contacted as suppliers, or to get the companies to send goods for which they will not be paid, or otherwise to harm the goodwill of the Complainant. The Respondent has not explained why it chose to impersonate the Complainant and to solicit goods in its name and the Panel finds that this conduct is illegitimate and most likely for phishing or other fraudulent purposes and constitutes 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 <yaracolombia.com> be transferred to the Complainant.

*/Alistair Payne/*

**Alistair Payne**

Sole Panelist

Date: December 3, 2024