

## **ADMINISTRATIVE PANEL DECISION**

Navantia, S.A., S.M.E. v. Carlos Blanco Vazquez, Itnet Consulting Business SL

Case No. D2023-0011

### **1. The Parties**

The Complainant is Navantia, S.A., S.M.E., Spain, represented by Ubilibet, Spain.

The Respondent is Carlos Blanco Vazquez, Itnet Consulting Business SL, Spain.

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

The disputed domain name <navantia.com> 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 January 3, 2023. On January 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 4, 2023, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 5, 2023 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 9, 2023.

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 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 1, 2023.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on February 6, 2023. 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 Spanish state-owned company that operates in the civil and military shipbuilding industry. It provides industrial and technological response to the Spanish Government essential naval capabilities for National Defense and Security; designs, constructs and repairs military ships and high-tech civilian vessels; manufactures turbines, engines and weapons systems, etc. The Complainant has facilities in key Spanish ports (of Ferrol, Cadiz, and Cartagena), and exports its products to various countries and jurisdictions, including Australia, Norway, Saudi Arabia, the United States of America, Latin America, Türkiye and India. It was established on July 30, 2004, from the merge of several smaller companies in the shipbuilding sector, and since then operates under the brand NAVANTIA or related brands such as NAVANTIA SEANERGIES.

The Complainant owns various trademark registrations for the brand NAVANTIA, including Spanish Trademark Registration No. 2633330, NAVANTIA, word, registered on June 21, 2005, in class 42; and European Union Trademark Registration No. 004259206, NAVANTIA, figurative, registered on March 28, 2006, in classes 7, 9, 12, 13, 16, 35, 37, 39, 41, and 42, (collectively the "NAVANTIA mark").

The Complainant further owns various domain names corresponding to the NAVANTIA mark, including <navantia.es> (registered on March 23, 2005) that resolves to its corporate website.<sup>1</sup>

The disputed domain name was registered on September 3, 2004, and it currently resolves to a landing page of TopDomainer that offers for sale the disputed domain name for EUR 25,000, and contains a contact form to provide offers for its purchase. According to the evidence provided by the Complainant, the disputed domain name has been previously inactive, or it has displayed various promotional links to third parties' websites in various sectors including the naval and shipbuilding industries, and related products and services.

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

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

Key contentions of the Complaint may be summarized as follows:

The NAVANTIA mark is internationally well-known in the naval industry, particularly in Spain. The Complainant is the fifth largest shipbuilder in Europe and the ninth largest in the world with shipyards all over the world, and it has exported a volume of EUR 10,000 million over the last ten years.

The disputed domain name is identical to the Complainant's trademark. The disputed domain name incorporates NAVANTIA mark in its entirety with no additional element.

The Complainant had rights over the NAVANTIA mark before the registration of the disputed domain name because the Complainant's company was established in July 2004. Before the date of the registration of the disputed domain name, there were various announcements and press coverage regarding the Complainant's foundation, as well as public announcements by the competent authorities of Spain in their official websites.

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<sup>1</sup> Other domain names owned by the Complainant are: <navantia.madrid>, <navantia.site>, <navantia.uk>, <navantia.au>, <navantia.in>, <navantia.blog>, <navantia.email>, <navantia.site>, <navantia.inc>, <navantia.com.br>, <navantia.cn>, <navantia.website>, and <navantia.international>.

The Respondent has no rights or legitimate interests in respect of the Domain Name. There is no evidence that the Respondent is commonly known by the term “navantia” or has never used this name, and there is no evidence of any previous use of the disputed domain name in connection with a *bona fide* offering of goods or services. There is no relationship between the Parties, and the Respondent has no authorization to use the NAVANTIA mark. The disputed domain name is identical to the Complainant’s trademark carrying a high risk of implied affiliation, so its use cannot be considered fair or legitimate. The disputed domain name has resolved during various years (from 2008 to 2011) to promotional Pay-Per-Click (“PPC”) sites with competing links.

The disputed domain name was registered and is being used in bad faith. The NAVANTIA mark is well established through long and widespread use, and it has acquired significant reputation in Spain and internationally. The Respondent is a Spanish citizen so he cannot deny that he knew about the Complainant and its trademark before the registration of the disputed domain name. The disputed domain name reproduces this trademark in its entirety, it is for sale, and there is no evidence that it has been used for any genuine offering of goods or services. The disputed domain name has been offered for sale over years for a price exceeding its documented out-of-pocket registration costs. These circumstances evidence that the disputed domain name was registered and is being used primarily for transferring it to the Complainant or to any of its competitors. The Respondent is associated with thousands of domain names, some of which are identical or confusingly similar to third parties’ registered trademarks or famous personalities, which corroborates a pattern of bad faith conduct. The Respondent has disrupted the Complainant’s business, and has intentionally attempted to attract, for commercial gain, Internet users to his landing page displaying PPC links and/or an offer for the purchase of the disputed domain name, for a commercial gain.

The Complainant has cited previous decisions under the Policy as well as various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”) that it considers supportive of its position, and requests the transfer of the disputed domain name.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

### **A. Identical or Confusingly Similar**

The Complainant indisputably has rights in the registered trademark NAVANTIA, both by virtue of its trademark registrations and as a result of its continuous use in the market for nearly twenty years (since 2004). In this respect, the Panel notes that the Complainant was established and started using the NAVANTIA mark in July 2004, although its first registration of this mark in Spain was obtained nearly one year later. The term “trademark or service mark” as used in the Policy encompasses both registered and unregistered marks. See section 1.1, [WIPO Overview 3.0](#).

The disputed domain name incorporates the NAVANTIA mark in its entirety with no additional element, and the generic Top-Level Domain (“gTLD”) “.com” is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity under the Policy. See sections 1.7, and 1.11.1, [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is identical to the Complainant's trademark, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

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

Although the Complainant bears the ultimate burden of establishing all three elements of paragraph 4(a) of the Policy, UDRP panels have recognized that this could result in the often impossible task of proving a negative, requiring information that is primarily if not exclusively within the Respondent's knowledge. Thus, the consensus view is that paragraph 4(c) of the Policy shifts to the Respondent the burden of production to come forward with relevant evidence of rights or legitimate interests in the disputed domain name, once the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests.

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Complainant's assertions and evidence effectively shift the burden to the Respondent of producing evidence of rights or legitimate interests in the disputed domain name, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant's *prima facie* case. However, the Respondent has not replied to the Complainant's contentions, not providing any explanation and evidence of rights or legitimate interests in the disputed domain name.

The Panel considers that the Complainant has made out a strong *prima facie* case that the Respondent could not have rights or legitimate interests in respect of the disputed domain name, not being authorized to use the NAVANTIA mark, and not existing any evidence that suggests that the Respondent may be commonly known by the disputed domain name. In this respect, the Panel notes that the term "navantia" is a coined term with no apparent meaning in any language, and the Respondent's name provided in the Registrar verification has no resemblance with the disputed domain name.

The Panel, under its general powers articulated, *inter alia*, in paragraph 10 of the Rules, has further corroborated through a search at the Global Brand Database that the Respondent does not own any trademark registration including or consisting of the term "navantia". This search further reveals that the Complainant owns all revealed registered trademarks including or consisting of this term ("navantia").

The Panel further notes that, at the time of drafting this decision, the disputed domain name resolves to a landing page that offers for sale the disputed domain name for EUR 25,000, and that, according to the Complainant's allegations, the disputed domain name is also offered for sale (for the same price) at <topdomainer.com>.

The Complainant has further alleged that the Respondent is associated with thousands of other domain names, some of which are identical or confusingly similar to third parties' registered trademarks or famous personalities. In this respect, the Panel considers that, in this particular case, the circumstances show, in a balance of probabilities, that there has been a target to the Complainant and/or its (unregistered at the time) trademarks. Particularly, considering the following circumstances of this case:

- (i) the fact that term "navantia" is a coined term;
- (ii) the notoriety of the Complainant and its trademarks in Spain;
- (iii) the fact that the Respondent, according to the Registrar verification, is located in Spain;
- (iv) the continuous use of the NAVANTIA mark since July 2004; and

- (v) the Respondent's use of the disputed domain name (during a few years) to display PPC links related to various sectors, including links to websites in the naval and shipbuilding industries, according to the evidence provided by the Complainant.

It is further remarkable the Respondent has not replied to the Complaint, not providing any explanation connected to any of the circumstances included in paragraph 4(c) of the Policy or any other circumstance that may be considered as a right or legitimate interest in the disputed domain name.

All the above-mentioned circumstances lead the Panel to conclude that the Respondent has not rebutted the Complainant's *prima facie* case, and all the cumulative facts and circumstances indicate the Respondent lacks any rights or legitimate interests in the disputed domain name. Therefore, the second element of the Policy under paragraph 4(a)(ii) has been established.

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

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain name has been registered and is being used in bad faith.

The applicable standard of proof is, likewise, the "balance of probabilities" or "preponderance of the evidence", being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel notes the continuous and extensive use of the NAVANTIA mark over nearly twenty years (since 2004), and its extensive presence over the Internet, as well as its well-known character in the shipbuilding industry. Any search over the Internet reveals the Complainant and its trademarks. The Panel further notes that the Complainant and its trademarks are object of extensive press coverage in the Spanish main media.

The Panel further considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain name:

- (i) the term "navantia" is a coined term;
- (ii) the disputed domain name incorporates the NAVANTIA mark in its entirety with no additional element, which generates a high risk of implied affiliation and risk of confusion;
- (iii) the Complainant's trademark is well-known in the shipbuilding industry, particularly in Spain where the Respondent is located according to the Registrar verification;
- (iv) the disputed domain name was used during a few years for displaying promotional PPCs links to third parties' websites in different sectors, including naval and shipbuilding industries related products and services, and it currently resolves to a landing page where the disputed domain name is offered for sale to a price probably exceeding its documented out-of-pocket registration costs (EUR 25,000);
- (v) the disputed domain name is also listed at <topdomainer.com>, where it is offered for sale for the same price (EUR 25,000); and
- (vi) the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain name and has not come forward to deny the Complainant's assertions of bad faith.

Therefore, on the balance of probabilities, taking into consideration all cumulative circumstances of this case, the Panel considers that the disputed domain name was registered targeting the NAVANTIA mark in bad faith.

The Panel finds that the evidence and circumstances of this case show that, in the balance of probabilities, the disputed domain name was registered and is being used with the intention of obtaining a free ride on the

Complainant's established reputation, to increase the traffic of a parked page linked to the disputed domain name by misleading Internet users seeking for the Complainant and its products and services for a commercial gain, which constitutes bad faith under the Policy. The evidence and circumstances of this case further support the finding that the disputed domain name may be registered or acquired primarily for the purpose of transferring it to the Complainant or to one of its competitors for valuable consideration in excess of the documented out-of-pocket costs directly related to its registration or acquisition.

It is further to be noted that, according to the Complainant's allegations, the Respondent is associated with other domain names, some of which are identical or confusingly similar to third parties' registered trademarks or famous personalities. In this respect, the Panel, under its general powers, has further corroborated that the Respondent or its company has been involved in at least two other prior cases under the Policy, in which bad faith has been found, namely *Bombril Mercosul S.A., Bombril S.A. v. Av. Madrid, 85, ITnet Consulting Business SL*, WIPO Case No. [D2009-0369](#); and *SAP SE v. Carlos Blanco Vazquez, Itnet Consulting Business SL*, WIPO Case No. [D2016-2623](#). In the Panel's view, these circumstances show a pattern of bad faith conduct or abuse in targeting third parties' trademarks on the part of the Respondent. See section 3.1.2 of [WIPO Overview 3.0](#).

All of the above-mentioned circumstances leads the Panel to conclude that the disputed domain name was registered and is being used in bad faith. Accordingly, the Panel considers that the Complainant has met its burden of establishing that the Respondent registered and is using the disputed domain name in bad faith under 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 <navantia.com> be transferred to the Complainant.

*/Reyes Campello Estebaranz/*

**Reyes Campello Estebaranz**

Sole Panelist

Date: February 20, 2023