

ADMINISTRATIVE PANEL DECISION

QatarEnergy v. James Irene
Case No. D2023-3078

1. The Parties

The Complainant is QatarEnergy, Qatar, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is James Irene, United States of America.

2. The Domain Name and Registrar

The disputed domain names <admin-qatarenergy.com> and <ong-qatarenergy.com> are 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 July 18, 2023. On July 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 20, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 July 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 1, 2023.

The Center appointed Peter Burgstaller as the sole panelist in this matter on September 8, 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 Qatari state-owned corporation founded in 1974 which operates all oil and gas activities in the State of Qatar; it operates its business globally through incorporated numerous subsidiaries, joint ventures, associates and joint operations (Annexes 1 and 5 to the Complaint).

The Complainant is the owner of the domain names <qatarenergy.qa> and <qatarenergy.com.qa> (Annex 6 to the Complaint).

The Complainant provides its main website at “www.qatarenergy.qa” but has also developed a strong online presence on various social media platforms like Facebook, Twitter, Youtube, Instagram or LinkedIn (Annex 7 to the Complaint).

Further, the Complainant owns numerous figurative trademark registrations containing the brandQATARENERGY, *inter alia*

- Austrian trademark Registration No. 316677, registered on December 17, 2021;
- United Kingdom Trademark Registration No. UK00003708704, registered on January 7, 2022;
- European Union Trade Mark Registration No. 018573695, registered on April 19, 2022 (Annex 8 to the Complaint).

The disputed domain names were registered on December 1, 2022 (Annex 2 to the Complaint); they do not resolve to a website providing an active content (Annex 9 to the Complaint).

A cease-and-desist letter sent by the Complainant on May 25, 2023 could not be delivered to the Respondent under the email address listed in the Whois records of the disputed domain names (Annex 10 to the Complaint).

5. Parties' Contentions

A. Complainant

The Complainant, QatarEnergy, is a Qatari state-owned corporation founded in 1974 which operates all oil and gas activities in the State of Qatar; it is one of the world's leaders in the production of liquefied natural gas.

The Complainant's activities, undertaken directly and indirectly through subsidiaries and joint ventures, encompass the entire spectrum of the oil and gas value chain locally, regionally and internationally, and include the exploration, production, processing, marketing and sales of crude oil, natural gas, liquefied natural gas, gas to liquids products, refined products, petrochemicals, fuel additives, fertilisers, steel and aluminium, chartering of helicopters, investing in industrial and international projects, underwriting insurance, marine bunkering, bitumen, transportation and storage of oil, gas and refined petroleum products.

Wholly owned by the State of Qatar, the Complainant's operations are directly linked with state planning agencies, regulatory authorities and policy making bodies.

The Complainant's revenues from oil and natural gas together amount to 60% of the national GDP of the State of Qatar. As of 2018, according to the Complaint, the Complainant was the third largest oil corporation in the world by oil and gas reserves. In 2021, the Complainant was listed as the No. two among the “Top 10 Unlisted Companies In Qatar” by Forbes Middle East.

The Complainant has incorporated numerous subsidiaries, joint ventures, associates and joint operations in different countries around the world.

Reflecting its global reach, the Complainant is the owner of domain names consisting of the name QatarEnergy, for instance, <qatareenergy.qa> or <qatareenergy.com.qa>. It has also made substantial investments to develop a strong presence online by being active on various social media forums; for instance, the Complainant's official page on Facebook has over 476 thousand "likes" and it has over 58 thousand followers on Twitter. Further, the Complainant owns trade mark registrations containing the term QATARENERGY in stylized forms throughout the world.

The disputed domain names are confusingly similar to the Complainant's trademarks: The Complainant owns trademark registrations comprising the term "qatarenergy" Y in stylized forms in jurisdictions throughout the world, with the textual element "qatarenergy" as principal feature of the Complainant's trademark.

The disputed domain names incorporate the Complainant's QATARENERGY mark in its entirety with the addition of the terms "admin" and "ong". However, the QATARENERGY mark is readily recognizable in the disputed domain names, rendering the disputed domain names confusingly similar to the Complainant's trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain names since it is not using the disputed domain names in connection with any *bona fide* offering of goods or service, it is not known by the disputed domain names, it is not making a legitimate noncommercial or fair use of the disputed domain names and at the end the Respondent has no relationship with the Complainant or authorization to make use of its trademarks in a domain name or otherwise.

Finally, the disputed domain names were registered and are being used in bad faith: Because of the fame of the Complainant and its QATARENERGY mark, the Respondent must have been aware of the Complainant and its QATARENERGY mark when registering the disputed domain names. Further, the postal address listed in the Whois records does not appear to exist and the Complainant's attempt at reaching out to the Respondent through the email address listed in the Whois records resulted in a delivery failure message; these elements suggest that the disputed domain names were registered using false Whois records and hence in bad faith.

In addition, by registering two disputed domain names which include the Complainant's QATARENERGY mark, the Respondent has engaged in a pattern of abusive domain name registration targeting the Complainant's trademarks.

Although the disputed domain names resolve to inactive web pages, such non-use of the disputed domain names would not prevent a finding of bad faith use under the doctrine of passive holding.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that

- (i) the disputed domain names are 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 with respect to the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

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. This test typically involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

In the case at issue, the Complainant submitted evidence, which incontestably and conclusively establishes rights in the mark QATARENERGY.

The disputed domain names are confusingly similar to the QATARENERGY mark in which the Complainant has rights since the Complainant's QATARENERGY mark is clearly recognizable in the disputed domain names and is the dominant and distinctive element. It has long been established under UDRP decisions that where the relevant trademark is recognizable within the disputed domain name, the mere addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) will not prevent a finding of confusing similarity under the first element of the Policy (see section 1.8 of the [WIPO Overview 3.0](#)).

This is the case at hand: the addition of the terms "admin-" and "ong-" as prefix to "qatarenergy" in the disputed domain names does not prevent a finding of confusing similarity.

Finally, it has also long been held that generic Top-Level Domain ("gTLDs") are generally disregarded when evaluating the confusing similarity under the first element.

Therefore, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see section 2.1 of the [WIPO Overview 3.0](#)). Here, the Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names, which has not been rebutted by the Respondent.

Furthermore, the nature of the disputed domain names, comprising the Complainant's famous and distinctive mark in its entirety together with the prefix "admin-" and "ong-", cannot be considered fair as these falsely suggest an affiliation with the Complainant that does not exist (see section 2.5 of the [WIPO Overview 3.0](#)).

Noting the above, and in the absence of any Response or allegations from the Respondent, the Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

As stated in many decisions rendered under the Policy (e.g., *Robert Ellenbogen v. Mike Pearson*, WIPO Case No. [D2000-0001](#)) both conditions, registration and use in bad faith, must be demonstrated.

(i) In the present case the Complainant has rights and is the owner of the well-known and highly distinctive registered figurative trademark QATARENERGY, which is registered and used in many jurisdictions around the world. Moreover, the Complainant registered and is using domain names containing QATARENERGY

trademark e.g., <qatarenergy.qa> or <qatarenergy.com.qa> to address its websites which are highly frequented and visited. Further, the Complainant has a strong social media presence with its QATARENERGY mark.

It is inconceivable for this Panel that the Respondent registered or has used the disputed domain names without knowledge of the Complainant's rights, which leads to the necessary inference of bad faith. This finding is supported by the fact that the disputed domain names incorporate the Complainant's distinctive trademark QATARENERGY entirely.

(ii) The disputed domain names are also being used in bad faith: Although there is no evidence that the disputed domain names have been actively used or resolved to a website with substantive content, previous UDRP panels have found that bad faith use under paragraph 4(a)(iii) does not necessarily require a positive act on the part of the respondent – the non-use of a domain name (including a blank or “coming soon” or resolving to a parking page or an offer for sale page) would not prevent a finding of bad faith (see especially *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. [D2002-0131](#) and section 3.3. of the [WIPO Overview 3.0](#)).

This Panel concludes that the disputed domain names are being used in bad faith, putting emphasis on the following:

- the Complainant's trademark QATARENERGY is well known, distinctive and has a strong Internet presence;
- the Respondent has failed to present any evidence of any good faith use with regard to the disputed domain names;
- the disputed domain names incorporate the Complainant's trademark in its entirety, and is thus suited to divert or mislead potential Internet users from the website they are actually trying to visit (the Complainant's site); and
- there is no conceivable plausible reason for good faith use with regard to the disputed domain names.

Taking all these aspects and evidence into consideration and the fact that the Respondent failed to respond to the Complaint and the cease-and-desist letter sent by the Complainant could not be delivered to the Respondent under the email address listed in the Whois records, supports the finding that the disputed domain names have been registered and are being used in bad faith under 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 names <admin-qatarenergy.com> and <ong-qatarenergy.com> be transferred to the Complainant.

/Peter Burgstaller/
Peter Burgstaller
Sole Panelist
Date: September 22, 2023