

ADMINISTRATIVE PANEL DECISION

Minerva S/A v. Chang Choi
Case No. D2022-1425

1. The Parties

The Complainant is Minerva S/A, Brazil, represented by Salusse, Marangoni, Parente e Jabur Advogados, Brazil.

The Respondent is Chang Choi, China.

2. The Domain Name and Registrar

The disputed domain name <minerwafoods.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 April 20, 2022. On April 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 2022, 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. In response to a notification by the Center, the Complainant filed an amendment to the Complaint on May 2, 2022.

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 May 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 3, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on June 14, 2022. 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 proceeding is Minerva S/A, a Brazilian corporation established in the city of Barretos, State of São Paulo, Brazil.

The Complainant, Minerva S/A, was acquired in 1992 by the Vilela de Queiroz family, which started cattle-raising and related activities in 1957 in Brazil.

The Complainant is one of the leading players in the production and sale of fresh beef and beef by-products, live cattle exports and beef processing in South America. The Complainant currently operates 10 industrial units in Brazil. In addition, the Complainant has 16 international offices, located in Algeria, Argentina, Australia, Chile, China, Colombia, Egypt, United Kingdom, Italy, Lebanon, New Zealand, Paraguay, Russian Federation, Singapore and the United States of America, to serve customers from all over the world.

The Complainant owns the MINERVA and MINERVA FOODS trademarks, which enjoy protection through several registrations worldwide including in Brazil and in China.

The Complainant is, *inter alia*, the owner of:

Brazilian Trademark registration number 826080120 for the MINERVA trademark, filed on January 21, 2004 and registered on December 5, 2017.

Brazilian Trademark registration number 840373821 for the MINERVA FOODS trademark, filed on December 21, 2012 and registered on May 7, 2019.

Chinese Trademark registration number 36913731 for the MINERVA trademark, registered on February 28, 2021.

Chinese Trademark registration number 53320460 for the MINERVA FOODS trademark, registered on September 14, 2021.

In addition, the Complainant holds the domain names <minervafoods.com> (registered on June 20, 2012) and <minervafoods.com.br> (registered on June 19, 2012).

The disputed domain name was registered on January 23, 2022.

The disputed domain name does not direct to any active website.

The Complainant's trademark registrations predate the registration of the disputed domain name.

5. Parties' Contentions

A. Complainant

The Complainant claims that the disputed domain name is confusingly similar to the MINERVA and MINERVA FOODS trademark registrations as well as to the Complainant's trade name and prior domain names <minervafoods.com> and <minervafoods.com.br>.

The only difference between the disputed domain name and the Complainant's prior domain names and trademark registrations is the substitution of the letter "V" for the letter "W", which is clearly not sufficient for the consumer or Internet user to distinguish them, especially considering that both words are visually very similar and may sound equal in several languages, such as in Portuguese.

The Complainant further states that the Respondent has no rights or legitimate interests whatsoever with respect to the disputed domain name. No license, or authorization of any other kind, has been given by the Complainant to the Respondent to use the MINERVA and/or MINERVA FOODS trademarks.

The Complainant has also noted that not only was the disputed domain name intentionally registered to create confusion with the Complainant's trademark for Internet users (as to the source, sponsorship, affiliation, or endorsement of the Respondent's website) but also that the disputed domain has active email servers associated with it, meaning that there is an email address linked to the disputed domain name, probably with the purpose of potentially being used in connection with the sending of spam and other fraudulent endeavors.

The Complainant thus concludes that the Respondent tried to benefit from the Complainant's famous trademark, and that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain name is 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 in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established rights in the MINERVA and MINERVA FOODS trademarks.

The disputed domain name, which is almost identical to the Complainant's MINERVA and MINERVA FOODS trademarks, differs from the latter by the replacement of the letter "V" with the letter "W" in the word "MINERWA".

This substitution in the disputed domain name does not prevent a finding of confusing similarity with the Complainant's trademarks.

Indeed, it appears to be a clear case of typo-squatting, where the Respondent is trying to take advantage of typing errors made by Internet users when searching for a desired name, in this case the Complainant's trademark.

See section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)) reproduced below: A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. This stems from the fact that the domain name contains recognizable aspects of the relevant mark.

Therefore, the Panel finds the disputed domain name to be confusingly similar to the MINERVA and MINERVA FOODS trademarks in which the Complainant has rights.

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

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant’s trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. Moreover, the Respondent has not replied to the Complainant’s contentions, claiming any rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant’s trademark registrations and rights to the MINERVA and MINERVA FOODS marks when it registered the disputed domain name.

In fact, the Complainant’s MINERVA trademark is fanciful name with no meaning aside from referring to the Complainant’s goods and services. It has been registered and used for many years and is a renowned trademark, especially in the food sector. Hence, the registration of the disputed domain name does not seem to be a coincidence, and thus indicates that the Respondent knew of the Complainant’s mark and intentionally intended to create an association with the Complainant and its business at the time of the registration of the disputed domain name. The typosquatting nature of the disputed domain name further supports this inference.

Inference of bad faith can also be made in the failure to respond to the Complainant’s contentions, and the Respondent’s lack of any rights or legitimate interests in the disputed domain name.

Further corroboration of bad faith can be found in the fact that the disputed domain name has active email servers which have been blacklisted in connection with providing hosting services to spammers.

In these circumstances, the passive holding of the disputed domain name would not prevent a finding of bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith.

Therefore, the Complainant has satisfied 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 name <minerwafoods.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: June 28, 2022