

ADMINISTRATIVE PANEL DECISION

Petróleo Brasileiro S.A. – Petrobrás v. qweqw dasdas, nanxiandas
Case No. D2024-3876

1. The Parties

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

Respondent is qweqw dasdas, nanxiandas, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <petrobras.fun> (the “Domain Name”) is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 23, 2024. On September 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 25, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (GNAME.COM PTE. LTD.) and contact information in the Complaint. The Center sent an email communication to Complainant on September 25, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint in English on September 25, 2024.

On October 1, 2024 the Center informed the parties in Chinese and English, that the language of the registration agreement for the Domain Name is Chinese. On October 1, 2024, Complainant requested English to be the language of the proceeding. On October 5, 2024, Complainant submitted the Complaint translated into Chinese. Respondent did not submit any comment on Complainant’s submission.

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 Respondent of the Complaint in Chinese and English, and the proceedings commenced on October 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 28, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on October 29, 2024.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on November 1, 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

Complainant is a mixed-capital company founded in 1953, involved energy, exploration, production, refining, marketing and transportation of oil, natural gas and derivatives. In particular, Complainant is active in the development of advanced technology for oil exploration in deep and ultra-deep waters.

Complainant owns numerous trademark registrations for PETROBRAS mark and variations thereof, before the Brazilian Trademark Office, including:

- Brazilian registered trademark number 002709007, registered on July 12, 1962;
- Brazilian registered trademark number 003676935, registered on February 1, 1978; and
- Brazilian registered trademark number 004101570, registered on December 10, 1981.

Complainant is also owner of several domain names in Brazil and abroad, such as: <petrobras.com.br>, registered on June 14, 1996, and <petrobras.com>, registered on March 6, 1996.

The Domain Name was registered on July 21, 2024. At the time of filing of the Complaint, the Domain Name resolved to a website that purportedly promoted itself as an official Petrobras site, directing users to a WhatsApp and Telegram group link, both instant messaging services, promoting investment services, presenting itself as an associate of Complainant.

On July 23, 2024 Complainant requested that the site associated with the Domain Name be taken down via APURA – Cybersecurity Intelligence. As a result, the Domain Name is currently held under a hold/transfer prohibited/update prohibited as per ICANN's Extensible Provisioning Protocol (EPP) Status Code.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Complainant contends that (i) the Domain Name is identical or confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for PETROBRAS, and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for bona fide and well-known PETROBRAS products and services.

Complainant notes that it has no affiliation with Respondent. Complainant further contends that Respondent is using the Domain Name as a tool to exploit Complainant's reputation for its own commercial gain, and that Respondent has no rights or legitimate interests in the registration and use of the Domain Name other than trademark infringement. Further, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Issue: Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

Complainant submitted its original Complaint in English. In its Complaint, Complainant submitted its request that the language of the proceeding should be English. According to the information received from the Registrar, the language of the Registration Agreement for the Domain Name is Chinese. On October 5, 2024, Complainant submitted the Complaint translated into Chinese. Respondent did not submit any comment on Complainant's submission.

Complainant submits that the English language should be the language for the current proceeding because the Registrant Membership Agreement associated with the Registrar of the Domain Name stated that the language of arbitration shall be English.

In exercising its discretion to use a language other than that of the Registration Agreement for the Domain Name, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time, and costs.

The Panel accepts Complainant's submissions regarding the language of the proceeding. The Panel also notes that the Domain Name does not have any specific meaning in the Chinese language, and that the Domain Name contains Complainant's PETROBRAS trademark in its entirety, the Domain Name redirected to a Portuguese-language webpage that featured Complainant's PETROBRAS trademark and trade dress, and that Respondent is reportedly located in Hong Kong, China where English is widely used. The Panel further notes that Complainant had further submitted the Complaint translated into Chinese, the Center notified the Parties in Chinese and English of the language of the proceeding as well as notified Respondent in Chinese and English of the Complaint. Respondent chose not to comment on the language of the proceeding, nor did Respondent choose to file a Response in Chinese or English.

Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2. Substantive Issues

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case, Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence of its rights in the PETROBRAS trademarks, as noted above under section 4. Complainant has also submitted evidence which supports that the PETROBRAS trademarks are widely known and a distinctive identifier of Complainant's products and services. Complainant has therefore proven that it has the requisite rights in the PETROBRAS trademarks.

With Complainant's rights in the PETROBRAS trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case, ".fun"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is identical to Complainant's PETROBRAS trademarks.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a prima facie showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes out such a prima facie showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its PETROBRAS trademarks, and does not have any rights or legitimate interests in the Domain Name. In addition, Complainant asserts that Respondent is not authorized to promote Complainant's services and is not related to Complainant. Respondent is also not known to be associated with the PETROBRAS trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a bona fide offering of goods or services or a legitimate noncommercial or fair use. Rather, at the time of the filing of the Complaint, the Domain Name resolved to a website that purportedly promoted itself as an official Petrobras site, directing users to a WhatsApp and Telegram group link, both instant messaging services, promoting investment services, and presenting itself as an associate of Complainant.

The website to which the Domain Name reverted featured the PETROBRAS trademark, as well as Complainant's trade dress – comprised of the green, yellow, and white colors, to promote its activities, in an attempt to impersonate Complainant and offered investment services, thus potentially misleading Internet users into thinking that the website has been authorized or operated by or affiliated with Complainant. Panels have held that the use of a domain name for illegitimate activity, such as impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Thus, such use by Respondent does not constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Moreover, the nature of the Domain Name, identical to Complainant's trademark PETROBRAS, is inherently misleading and carries a high risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, Complainant has provided evidence supporting its prima facie claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name.

Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name, and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The Panel finds that Complainant has provided ample evidence to show that registration and use of the PETROBRAS trademarks long predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant's PETROBRAS trademarks and related products and services are widely known and recognized. Therefore, the Panel is of the view of that Respondent was aware of the PETROBRAS trademarks when it registered the Domain Name. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Name identical to Complainant's PETROBRAS trademark suggests Respondent's actual knowledge of Complainant's rights in the PETROBRAS trademarks at the time of registration of the Domain Name and its effort to opportunistically capitalize on the registration and use of the Domain Name.

Moreover, Respondent registered and is using the Domain Name to confuse and mislead consumers looking for bona fide and well-known PETROBRAS products and services of Complainant or authorized partners of Complainant.

In particular, the evidence provided by Complainant indicated that at the time of filing of the Complaint, the Domain Name reverted to a website purportedly impersonating Complainant by featuring Complainant's PETROBRAS mark, and presenting itself as Complainant on the website. The use of the PETROBRAS mark in the Domain Name is intended to capture Internet traffic from Internet users who are looking for Complainant's products and services. Therefore, by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's webpage by creating a likelihood of confusion with Complainant's PETROBRAS mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website. All these actions may result in tarnishing Complainant's reputation and good will in the industry.

Further, panels have held that the use of a domain name for illegitimate activity here, claimed impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Accordingly, the Panel finds that Respondent registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Name <petrobras.fun> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: November 5, 2024