

ADMINISTRATIVE PANEL DECISION

GRUPO ENERGÍA BOGOTÁ S.A. E.S.P. v. alirio moreno
Case No. D2024-3058

1. The Parties

The Complainant is GRUPO ENERGÍA BOGOTÁ S.A. E.S.P., Colombia, represented by Philippi Prietocarrizosa Ferrero DU & Uría, Colombia.

The Respondent is alirio moreno, Colombia.

2. The Domain Name and Registrar

The disputed domain name <geb-tgi.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 26, 2024. On July 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 30, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 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 amended Complaint on August 2, 2024.

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 August 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2024. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent’s default on September 12, 2024.

The Center appointed Daniel Peña as the sole panelist in this matter on September 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 company incorporated, domiciled and existing in accordance with the laws of Colombia.

The Complainant is the parent company of a business group dedicated mainly to the transmission, generation and distribution of electricity and natural gas in Colombia, Peru, Brazil, and Guatemala that has 11 subsidiaries.

- TRANSPORTADORA DE GAS INTERNACIONAL S.A. is a subsidiary of the Complainant and authorized to operate in commerce under the acronym TGI S.A., with official website at "www.tgi.com.co". The domain name <tgi.com.co> is also used as a corporate email address for TGI S.A.

- The Complainant is the owner of the GEB trademark, which is registered in Colombia in Classes 4, 9, 11, 12, 35, 36, 37, 39, 40, 41, and 42, through trademark registration No. 603110, registered on September 18, 2018.

The Complainant also owns a family of trademarks, all of which feature the expression "TGI" in Colombia in Classes 4, 16, 35, 36, 37, 39, 41, and 42, with the earliest trademark registration dating from April 29, 2011, through trademark registration No. 10148015 for TGI GRUPO ENERGÍA DE BOGOTÁ.

The disputed domain name was registered on August 11, 2023. At the time of the filing of the Complaint until the date of this Decision, the disputed domain name does not resolve to any active website.

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 the disputed domain name is identical to the trademarks owned by the Complainant, as it incorporates them without any additional elements that would allow for a distinction.

The Respondent is not affiliated with the Complainant and does not represent the rights or interests of the Complainant.

The Respondent does not have any authorization to make use of the trademarks GEB and TGI owned by the Complainant nor to register domain names containing them.

The disputed domain name is currently parked and therefore not operational.

The disputed domain name was registered with the fraudulent purpose of impersonating the Complainant's employees and sending purchase orders to its providers for high-value products in an attempt to consolidate fraud against the Complainant's subsidiary suppliers.

The Respondent registered the disputed domain name made up by two trademarks owned by the Complainant, which have no relationship with each other aside from being the acronyms of the names of two companies within the Complainant's business group, must be considered indicative of bad faith.

The Respondent registered the disputed domain name and is using it in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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. Considering these requirements, the Panel rules as follows.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or servicemark in which the Complainant has rights.

The Panel holds that the disputed domain name is confusingly similar to the Complainant's trademarks GEB and TGI. The Respondent's incorporation of the Complainant's trademarks in full and combined in the disputed domain name is evidence that the disputed domain name is confusingly similar to the Complainant's marks.

The Complainant has provided evidence of its rights in the trademarks GEB and TGI on the basis of its trademark registrations in Colombia. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview on WIPO Panel Views on Selected UDRP Questions, ("[WIPO Overview 3.0](#)"), section 1.2.1).

The Panel notes that the disputed domain name is composed of two of the Complainant's registered trademarks separated by a hyphen and the Complainant's trademarks are clearly recognizable in the disputed domain name. Regarding whether the disputed domain name is identical or confusingly similar to the Complainant's trademarks, there is no question that the disputed domain name, which consists solely of the combination of the Complainant's GEB and TGI trademarks, separated only by a hyphen, is confusingly similar to the Complainant's trademarks.

The Top-Level Domain ("TLD") ".com", is viewed as a standard registration requirements and as such may be disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark (see also [WIPO Overview 3.0](#), section 1.11.1).

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the Complainant, previous UDRP 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 disputed domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element (see [WIPO Overview 3.0](#), section 2.1).

The Panel finds that the Complainant has made a prima facie case showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not commonly known under the disputed domain name. The Respondent is not affiliated with the Complainant in any way and that it never authorized the Respondent to use its trademark as part of the disputed domain name.

In light of the evidence of impersonation of the Complainant's employees through the sending of fraudulent emails to some of the Complainant's clients through email addresses associated with the disputed domain name, the Respondent is considered as having no rights or legitimate interests in the disputed domain name. [WIPO Overview 3.0](#), section 2.13.1.

The Panel notes that the Respondent has not filed a Response and thus did not refute the Complainant's assertions, nor brought any information or evidence for demonstrating any rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a disputed domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of the complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; (ii) the respondent has 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 the respondent has engaged in a pattern of such conduct; (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The Panel finds that the Respondent has registered the disputed domain name that contains the combination of two of the Complainant's trademarks GEB and TGI and a hyphen in bad faith. Firstly, according to prior UDRP decisions, the mere registration of a domain name that is identical or confusingly similar to a registered and well-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)). Indeed, the Panel considers that it is established that the GEB and TGI trademarks were registered and used well before the registration of the disputed domain name and that these trademarks are well known in Colombia, which is where the Respondent reportedly resides. Therefore, there is a presumption of bad faith registration of the disputed domain name given that it wholly reproduces both GEB and TGI trademarks combined. The Panel also considers that the combination of two trademarks of the Complainant reinforces the Panel's findings regarding the Respondent's awareness of the Complainant given that said acronymic trademarks identify different subsidiaries of the Complainant.

Although the disputed domain name does not resolve to any active website, the evidence provided by the Complainant demonstrates that the disputed domain name was still actively used for email services, i.e., for sending emails which impersonate the Complainant's employees and for sending purchase orders to the suppliers of the Complainant's subsidiaries. Moreover, the Respondent's fraudulent emails included some of the details of the Complainant. Such use of the disputed domain name can only be observed as clear evidence of the Respondent's bad faith (see, in particular, [WIPO Overview 3.0](#), section 3.4).

Considering the above circumstances, the Panel concludes that the Respondent has used the disputed domain name in an unlawful attempt to impersonate the Complainant, by way of an email fraud.

This clearly constitutes evidence of bad faith registration and use. Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain name 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 <geb-tgi.com> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: October 1, 2024