

## **ADMINISTRATIVE PANEL DECISION**

MINERVA S.A. v. Isa Hay, for oru ltd  
Case No. D2024-4751

### **1. The Parties**

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

The Respondent is Isa Hay, for oru ltd, United Kingdom.

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

The disputed domain name <m1nervafoods.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 18, 2024. On November 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 19, 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 (“Registration Private, Privacy service provided by Withheld”) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 20, 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 amendment to the Complaint on November 27, 2024.

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 November 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 19, 2024. The Respondent sent an informal email communication to the Center on November 20, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on January 3, 2025. 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.

The Complainant submitted a supplemental filing on November 29, 2024.

#### **4. Factual Background**

According to information in the Complaint, the Complainant is a Brazilian company acting in the field of production of beef, leather, export of live cattle and meat products as well as in the processing of beef, pork and poultry, being one of the leaders in the production and sale of fresh beef and its byproducts, live cattle exports and beef processing in South America. It has 33 industrial units offering products which are sold to customers in more than 100 countries around the world by its 14 distribution centers and 17 international offices. The Complainant has been using the trademark MINERVA in the meat business since 1992.

The Complainant has registered several trademarks consisting of MINERVA, including the Brazilian trademark having registration number 909630798, registered as of October 2, 2018, for class 29. The Complainant has registered the domain names <minervafoods.com> and <minervafoods.com.br> which it uses for its official website.

The Respondent is reportedly an individual located in the United Kingdom.

The disputed domain name was registered on October 31, 2024, and it does not resolve to an 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 confusingly similar to its MINERVA trademark, as well as to the Complainant's trade name and prior domain name registrations, given that number "1", when visualized in the online context, can easily be misread as the letter "I".

As regards the second element, the Complainant argues that the Respondent has not been authorized by the Complainant to use the MINERVA trademark and there is no business relationship between the Complainant and the Respondent. Also, the disputed domain name has active email servers associated with it, which could lead to potentially fraudulent activities conducted through it. The Complainant has received a fraud alert in connection with the disputed domain name. Therefore, the Complainant submits that it is very likely that the Respondent registered the disputed domain name with the sole intent to use it to impersonate or conduct fraudulent scams to pass off as the Complainant.

With respect to the third element, the Complainant argues that the Respondent evidently knew of the existence of the Complainant's prior trademark rights, which were matters of public record, before registering the disputed domain name. A further element to be taken into account and which corroborates the Respondent's bad faith is its choice to retain a privacy protection service so as to conceal the true identity of the underlying registrant.

## **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. In the communication of November 20, 2024, the Respondent wrote: "I have removed this domain from my hosting. It was a hacker that added it and used God knows what. I found out and deleted the domain from my hosting. Does it still show active your end?"

## **6. Discussion and Findings**

### **6.1. Procedural aspects – supplemental submission**

The Panel finds that the supplemental filing of the Complainant should not be accepted. Accordingly, the Panel delivers its decision here without regard to the supplemental filing.

Paragraph 10 of the Rules vests the Panel with the authority to determine the admissibility, relevance, materiality and weight of the evidence, and also to conduct the proceedings with due expedition. Unsolicited supplemental filings are generally discouraged, unless specifically requested by the Panel. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.6.

The Panel notes that the supplemental filing of the Complainant included certain correspondence that was allegedly sent from the email given by the Respondent for the contact details when registering the disputed domain name, and impersonating the Complainant. Such correspondence was available to the Complainant before the filing of the amendment to the Complaint. The Panel is of the view that a supplemental submission is appropriate only in exceptional circumstances and that the party submitting (or seeking to submit) it must explain its relevance and the circumstances that prevented the information being provided in the complaint (or in the amendment to the Complaint, as the case here). Therefore, the Panel has decided to disregard the supplemental submission (though the Panel notes that nothing in the supplemental submission would have changed the outcome of this matter).

### **6.2. Substantive issues**

No formal response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the [WIPO Overview 3.0](#).

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.

## **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. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the trademark MINERVA for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Complainant's mark is recognizable within the disputed domain name which incorporates the obvious misspelling of the MINERVA trademark of the Complainant, with the substitution of the letter "i" in the trademark by the similar-appearing number "1". This misspelling in the disputed domain name also referred to as typosquatting, does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.9). Accordingly, the disputed domain name is confusingly similar to the Complainant's mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is the settled view of panels applying the Policy that the Top-Level Domain ("TLD") (here ".com") should be disregarded under the first element test.

The Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

There is no evidence that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name. Also, there is no evidence that the Respondent is commonly known by the disputed domain name. The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

According to the un rebutted assertions of the Complainant, its MINERVA trademarks were widely used in commerce well before the registration of the disputed domain name and are reputed. The disputed domain name is a misspelled version Complainant's trademark. Under these circumstances, it is most likely that the

Respondent was aware of the Complainant's trademark at the registration date of the disputed domain name. The Respondent provided no explanations for why it registered the disputed domain name.

With regards to the use, the disputed domain name is passively held. Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding.

[WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good faith use and indeed none would seem plausible. An additional element is the DNS setup of the disputed domain name (with active MX records) which presents an implied ongoing threat to the Complainant.

In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name.

The Panel finds that the Complainant has established 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 <m1nervafoods.com> be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: January 16, 2025