

ADMINISTRATIVE PANEL DECISION

Pluspetrol SA v. Mario Hernandez

Case No. D2025-0238

1. The Parties

The Complainant is Pluspetrol SA, Argentina, represented by Allende & Brea Law Firm, Argentina. The Respondent is Mario Hernandez, Venezuela (Bolivarian Republic of).

2. The Domain Name and Registrar

The disputed domain name <somospluspetrol.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 January 22, 2025. On January 22, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 23, 2025, 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 January 24, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 13, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 14, 2025.

The registrant of the disputed domain name, in two informal communications following the Notification of Respondent Default, argued that the disputed domain name was unused, and it could be transferred to anyone interested. Furthermore, the registrant of the disputed domain name also stated that he was only the website designer and did not have any relationship with Josue Miguel Gusieff (the person who figured as the president of Pluspetrol on the website connected to the disputed domain name).

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on February 19, 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.

4. Factual Background

The Complainant, Pluspetrol SA, is a private international company with over 45 years of experience in the exploration and production of oil and gas. The company operates in Argentina, Bolivia, Colombia, Ecuador, United States, Netherlands, Peru, and Uruguay.

The Complainant owns trademarks with the element PLUSPETROL, including but not limited to:

- Peruvian trademark registration number T00015082 for PLUSPETROL & design, registered on February 3, 2016 for services in international classes 1, 37 and 39; and –
- Argentinean trademark registration number 3433130 for PLUSPETROL & design, registered on August 28, 2023, for goods in international class 4, renewal of trademark registration number 2651901.
- Argentinean trademark registration number 3570320 for PLUSPETROL & design, registered on July 5, 2024, for services in international class 37, renewal of trademark registration number 2712059.

The Complainant also owns the domain name <pluspetrol.net>, registered on October 2, 2000. The Respondent is Mario Hernandez, from Venezuela (Bolivarian Republic of).

The disputed domain name was registered on May 15, 2024, and resolves to an inactive page. However, at the time of the Complaint, the disputed domain name was used to impersonate the Complainant's information and activities to attract Internet users who were intending to access the official website of PLUSPETROL SA.

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.

The Complainant argues that the disputed domain name is identical or confusingly similar to the trademark PLUSPETROL.

There is no evidence that the Respondent has made demonstrable preparations to use the disputed domain name for legitimate purposes, nor is there any evidence that the Respondent is using the disputed domain name in connection with any noncommercial or fair use. The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

That being the case, the Complainant finds that the disputed domain name is likely to make Internet users assume that the website that is linked to the disputed domain name offers some of the Complainant's services.

According to the Complainant, it has prior rights over the trademark PLUSPETROL and has not authorized the Respondent's registration and use of the disputed domain name.

The Complainant's intellectual property rights for PLUSPETROL trademarks and its domain name predate the registration of the disputed domain name.

According to the Complainant, the registration and use of the disputed domain name has been conducted in bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

On February 14, 2025, the registrant of the disputed domain name sent an e-mail to the Center informing it that the disputed domain name was not in use, and it could be transferred to anyone who was interested in it.

On the same date, on later e-mails to the Center, the registrant of the disputed domain name stated that he was only the web designer and had no relationship with Josue Miguel Gusieff, and that the disputed domain name was available to be transferred. He provided an EPP key code for the disputed domain name transference.

6. Discussion and Findings

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the 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 used in bad faith.

The Panel notes that the registrant of the disputed domain name stated that he was the website designer. The Panel notes that little is known about the beneficial holder. There is no evidence on the existence and nature of the relationship between the Respondent and the alleged beneficial holder. Irrespective of whether there is an actual beneficial holder or not, noting that Mario Hernandez is the registrant confirmed by the Registrar, the Panel has decided to consider that Mario Hernandez is the Respondent. However, references to the Respondent shall include any actions by the beneficial holder regarding the disputed domain name.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

The entirety of PLUSPETROL is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

Panels have held that the use of a domain name for illegal activity, here, claimed as applicable to this impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The nature of the disputed domain name, which incorporates the term “somos” (“we are” in English), carries a risk of implied affiliation as it effectively impersonated the Complainant.

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.

In the present case, the Panel finds that the Respondent was clearly aware of PLUSPETROL trademark as the disputed domain name displayed PLUSPETROL trademark (word mark and design) and emulated the corporate image of PLUSPETROL SA, also disclosing false information about Pluspetrol SA’s staff members, with fake LinkedIn’s accounts’ links, intentionally attempting to attract Internet users by creating a likelihood of confusion with the Complainant’s mark.

Moreover, the translation of “somos pluspetrol” is “we are pluspetrol,” which increases the idea of undue affiliation of the disputed domain name with the Complainant.

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.

Panels have held that the use of a domain name for illegal activity, here, claimed as impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitute bad faith under the Policy.

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 <somospluspetrol.com> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: March 5, 2025