

ADMINISTRATIVE PANEL DECISION

Colbún S.A. v. Stanley Pace
Case No. D2025-1943

1. The Parties

The Complainant is Colbún S.A., Chile, represented by PORZIO, RIOS & ASOCIADOS, Chile.

The Respondent is Stanley Pace, United States of America, represented by John Berryhill, Ph.d., Esq., United States of America.

2. The Domain Name and Registrar

The disputed domain name <colbun.com> is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 15, 2025. On May 15, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 15, 2025, 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 May 16, 2025 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 June 12, 2025.

On May 16, 2025, the Center informed the parties in English and Spanish, that the language of the registration agreement for the disputed domain name is English. On June 12, 2025, the Complainant confirmed its request that Spanish be the language of the proceeding. The Respondent objected to the Complainant’s request.

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 June 23, 2025. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2025. The Response was filed with the Center on July 18, 2025.

The Center appointed José Ignacio San Martín Santamaría, Nick J. Gardner, and Pablo A. Palazzi as panelists in this matter on August 11, 2025. The Panel finds that it was properly constituted. Each member of 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 Chilean energy company with 38 years of experience in power generation and commercialization.

The company is headquartered at Santiago de Chile. The Complainant has over 1,300 employees and an installed capacity of over 5,000 MW through 29 generation plants in Chile and Peru.

Colbún's history began in 1985 with the start of operations of the Colbún and Machicura hydroelectric plants, built by state-owned Endesa. In 1986, Empresa Eléctrica Colbún Machicura S.A. was created following Endesa's division.

The Complainant is the owner of the COLBUN trademarks, Registrations No. 1025742, No. 1025756, No. 1025754, No. 1025752, No. 1025750 all registered on August 7, 2013, and Registration No. 1025748, registered on July 9, 2013, in the National Institute of Industrial Property ("INAPI") of Chile, in classes 16, 35, 37, 39, 40, and 42.

The Complainant also owns the domain name <colbun.cl> since February 11, 1998. It also owns several other domain names combining the mark COLBUN with other terms.

The disputed domain name was registered on January 13, 2003. The disputed domain name resolves to a website that contains the following legend: "The domain name colbun.com May be available for sale. This domain name (without content) may be available for sale or lease by its owner through Bodis's domain sales platform". There is a form to complete name and email and make an offer.

The disputed domain name was used in the past for pay per click advertising.

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 trademarks.
- the Respondent has no rights or legitimate interests in respect of the disputed domain name.
- the Respondent has registered and is using the disputed domain name in bad faith: the Complainant argues that the disputed domain name is subject to passive use according to the *Telstra* case, and that it has been offered for sale publicly.

B. Respondent

The Respondent contends that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name.

The Respondent contends that:

The term “Colbún” is a geographical designation in Chile being the name of a town with some 17,000 inhabitants. The town adopted this name when it was founded in 1927.

The disputed domain name has historically been used for paid advertising relating to terms in the domain name.

The second criterion of the Policy requires the Complainant to show that the Respondent has no legitimate rights or interests in the domain name. Such rights are not limited to trade or service mark rights, but include equitable interests such as bona fide use of the domain name. In the context of common descriptive words and phrases, panels have further recognized that speculative investment interests in such terms of inherent commercial value, apart from particular trade or service marks, can constitute a legitimate interest.

The Complainant does mention that the Respondent has offered the domain name for general public sale. However, it is well established that the collection and offering for sale of generic and descriptive words – in this instance a geographic term – is not by itself illegitimate under the Policy absent a specific targeting of a trademark.

The mere general offer for sale of a non-exclusive and non-distinctive term does not implicate or violate the Complainant's limited rights. Accordingly, there has been no illegitimate use of the domain name.

When the disputed domain name consists of a generic word, specifically a geographic place name as in the present matter, the Complainant rightfully bears a heightened evidentiary burden to demonstrate that its trademark rights, which are necessarily narrower in scope than the primary meaning of the geographic terms themselves, constituted the specific target of the Respondent's alleged illegitimate registration and use activities. This elevated burden of proof reflects the established UDRP principle that geographic terms possess inherent commercial value and legitimate uses independent of any particular trademark claim.

UDRP panels have consistently held that mere coincidence between a geographic term and a commercial trademark proves insufficient to establish targeting or bad faith conduct, requiring additional and specific evidence demonstrating that the domain registrant possessed actual knowledge of the complainant's trademark and intentionally sought to exploit its commercial reputation or goodwill, evidentiary elements that the Complainant has manifestly failed to establish in the present proceeding.

The Telstra decision does not apply to this case since none of its elements are present, namely: (a) the Telstra mark was an inherently distinctive, made-up term with no significance other than as a well-known trademark in Australia. Here, we have a geographic place name widely used by others in that region; (b) the Telstra respondent used fake registration data. Here, it is well known that registrars have implemented default privacy, and that the UDRP has been amended to follow a process of obtaining registrant information. Indeed, the Complainant has been granted long extensions of time throughout this process. The registrant data provided by the registrar is correct, and identifies Mr. Pace as the registrant; (c) the Telstra respondent did not appear and did not respond, that is not the case here.

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is English. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative 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.

The Complaint was filed in Spanish. The Complainant requested that the language of the proceeding be Spanish for several reasons. The Respondent requested that the language of the proceeding be English for its own reasons.

At the same time, the Panel also notes that the Respondent submitted a substantive and extensive Response, in English, addressing the Complainant's contentions that were filed in Spanish.

In exercising its discretion to use a language other than that of the registration agreement, 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 (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, and the circumstances of this case, the Panel finds that accepting the Complaint filed in Spanish does not prejudice the Respondent's right of defence, and the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English, accepts the complaint filed in Spanish, but will proceed with rendering the Decision in English.

6.2. Substantive issues

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 the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical 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.

The Panel finds that the Respondent has made a legitimate noncommercial or fair use of the disputed domain name. [WIPO Overview 3.0](#), section 2.5.

The disputed domain name constitutes a geographical location. Where a domain name corresponds to a recognized geographical location, respondents possess legitimate interests in utilizing such names for bona

fide purposes, absent clear evidence of targeting or bad faith appropriation of complainant's trademark rights. The geographical nature of the disputed domain creates a presumption of legitimate use, particularly where Respondent's conduct does not align with trademark exploitation.

In the present circumstances, the Respondent's allegations demonstrate consistency and credibility, while the Complainant has failed to establish the requisite nexus between the geographical domain name and potential consumer confusion or dilution of their trademark rights.

Under established UDRP jurisprudence and the principles articulated in [WIPO Overview 3.0](#), a complainant bears the burden of proving that respondent's registration and use of the disputed domain name creates a demonstrable risk of association with complainant's trademark rights. This burden is particularly heightened where, as here, the domain name possesses independent significance as a geographical location. The evidence presented fails to establish that Respondent engaged in a pattern of conduct suggesting intentional targeting of complainant's trademark or exploitation of goodwill associated therewith. Absent credible evidence of Respondent's knowledge of Complainant's trademark at the time of registration, or subsequent conduct indicating bad faith use designed to capitalize on trademark recognition, the mere coincidence between a geographical domain name and Complainant's trademark rights is insufficient to satisfy the requirements under Policy paragraph 4(a)(iii).

The consistency of the Respondent's position, coupled with the geographical significance of the disputed domain name, militates against a finding that the Respondent registered or used the domain name in bad faith to take unfair advantage of the Complainant's trademark rights.

According to the evidence available in this case, the disputed domain name used to have advertising related to its content. Currently, the disputed domain name resolves to a website that offers it for sale. Such business activities can be legitimate and are not in themselves a breach of the Policy, so long as they do not unfairly take advantage of the owner's trademark rights. WIPO Case No. [D2017-0253](#), *Consorzio per la Tutela del Formaggio Gorgonzola v. Rob Monster / DigitalTown, Inc.*

In this case, no evidence has been provided to establish that the Respondent has engaged in the registration of domain names that take advantage of another's trademark rights.

The Panel finds the second element of the Policy has not 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 notes that:

The disputed domain name is a geographical name.

The disputed domain name has been used for advertising in the past and currently it is soliciting offers.

The Respondent is not targeting the Complainant.

The Respondent has shown that he has registered a significant number of South American geographical place names as domain names.

The Complainant has not been able to prove that there is an intention of impersonation or unfair advantage on the part of the Respondent when registering the disputed domain name or when using it.

The mere registration of the disputed domain name does not demonstrate bad faith given that “Colbún” is primarily a geographic location in Chile, specifically a city in the Maule Region.

The evidence in the case file as presented does not indicate that the Respondent's aim in registering the disputed domain name was to profit from or exploit the Complainant's trademark.

The Complainant has failed to demonstrate that the Respondent specifically targeted Complainant's 's trademark rights when registering the disputed domain name. The passive holding of the disputed domain name, while potentially problematic in certain clear cybersquatting cases, does not automatically establish bad faith when dealing with terms that have independent significance beyond any trademark use. [WIPO Overview 3.0](#) acknowledges that panels must carefully balance trademark rights against legitimate geographic use, and the burden remains on complainants to prove actual knowledge of and intent to target their specific trademark rights. Without evidence of the Respondent's awareness of the Complainant's business or deliberate attempts to trade on the COLBUN trademark's goodwill, the registration may simply reflect a legitimate interest in the geographic location rather than cybersquatting behavior.

Considering the findings set forth in the rights or legitimate interests section above, the Panel finds it unnecessary to address the applicability of the Telstra elements in the present case.

The Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Pablo A. Palazzi/

Pablo A. Palazzi

Presiding Panelist

/José Ignacio San Martín Santamaría/

José Ignacio San Martín Santamaría

Panelist

/Nick J. Gardner/

Nick J. Gardner

Panelist

Date: August 25, 2025