

ADMINISTRATIVE PANEL DECISION

HOERBIGER Holding AG v. Alexey Shishov

Case No. D2025-2090

1. The Parties

The Complainant is HOERBIGER Holding AG, Switzerland, represented by PENDL MAIR Attorneys at Law OG, Austria.

The Respondent is Alexey Shishov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <hoerbiger-service.com> (the “Domain Name”) is registered with REG.RU LLC (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 27, 2025. On May 27, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 2, 2025, 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 (Personal data, can not be disclosed according to applicable laws) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 2, 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 6, 2025.

On June 2, 2025 the Center informed the Parties in Russian and English, that the language of the registration agreement for the Domain Name is Russian. On June 6, 2025, the Complainant confirmed its request that English be the language of the proceedings. The Respondent did not submit any comment on the 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 the Respondent in Russian and English of the Complaint, and the proceedings commenced on June 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was June 30, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 1, 2025.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on July 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.

4. Factual Background

The Complainant is a technology company that delivers high-performance components and systems to enhance efficiency, safety, and sustainability in industrial and automotive sectors. Its core areas include compression, automotive, rotary unions, engine systems, and industrial safety solutions.

According to information available on the Complainant's official website at the domain name <hoerbiger.com>, the Complainant employs 6,477 people across 130 locations in 40 countries and generated revenue of EUR 1.466 billion in 2024.

The Complainant is the owner of numerous HOERBIGER trademark registrations, including:

- the International Trademark Registration for HOERBIGER (word) No. 740260, registered on April 19, 2000;
- the Swiss Trademark Registration for HOERBIGER (word) No. 09450/1999, registered on April 19, 2000; and
- the United States of America Trademark Registration for HOERBIGER (word) No. 2629876, registered on October 8, 2002.

The Domain Name was registered on May 23, 2022.

At the time of submitting the Complaint, the Domain Name resolved to a website reportedly operated by a Russian company ХЕРБИГЕРСЕРВИС LTD established on April 22, 2022, active in the field of gas compression (the "Website"). The Website promotes a wide range of services related to reciprocating compressor equipment, including the manufacture and repair of valves and spare parts, diagnostics, technical audits, equipment upgrades, capacity control systems, and training.

The "Team" section at the Website describes personnel with extensive industry experience, including work with major brands such as the Complainant, with several individuals identified as experts or supervisors for the Complainant's equipment.

According to the Complainant, the Respondent is a former employee who worked for the Complainant for over 14 years and is familiar with its operations and customer base. The Complainant further alleges that the Respondent is currently the Chief Executive Officer of the company operating under the Domain Name, is active in the same business field, and is using knowledge gained during his prior employment to support his current commercial activities.

The Complainant further claims the Respondent has used email addresses incorporating the Complainant's trademark to contact third parties, creating a misleading appearance of affiliation and raising concerns of possible impersonation. The Complainant further submits that the Website displays copyrighted materials owned by the Complainant.

As of the date of this Decision, the Domain Name still resolves to the 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 Domain Name.

First, the Complainant contends that the Domain Name is confusingly similar to the trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Matters – Language of the Proceedings

The language of the Registration Agreement for the Domain Name is Russian. 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 proceedings shall be the language of the registration agreement.

The Complainant requests that the language of the administrative proceedings be English.

First, the Complainant claims that the Website is in English and targets international audience, indicating that the Respondent is capable of operating in English.

Second, the Complainant asserts that the Respondent previously worked for the Complainant for over 14 years and regularly communicated in English with international colleagues.

Third, the Complainant notes that the use of the Top-Level Domain ("TLD") ".com" suggests an intent to reach a global, English-speaking audience.

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 section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that substantial additional expense and delay would likely be incurred if the Complaint had to be translated into Russian. Moreover, the Panel notes that the Respondent did not comment or let alone object to the Complainant's arguments concerning the language of the proceedings.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceedings shall be English.

6.2. Substantive Matters – Three Elements

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the 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 the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the [WIPO Overview 3.0](#).

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant holds valid registrations for the HOERBIGER trademark. The Domain Name incorporates this trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to that trademark. See *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#).

The addition of the term “-service” in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the HOERBIGER trademark. Panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See section 1.8 of the [WIPO Overview 3.0](#).

The TLD “.com” in the Domain Name is viewed as a standard registration requirement and as such is typically disregarded under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainant’s HOERBIGER trademark for purposes of the Policy. In sum, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Under the second element, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Name.

A right or legitimate interest in the Domain Name may be established, in accordance with paragraph 4(c) of the Policy, if the Panel finds any of the following circumstances:

- (i) that the Respondent has used or made preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services prior to the dispute; or
- (ii) that the Respondent is commonly known by the Domain Name, even if the Respondent has not acquired any trademark rights; or

(iii) that the Respondent is making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

In the present case, the Complainant's HOERBIGER trademark registrations predate the Respondent's registration of the Domain Name. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use the HOERBIGER trademark or to register the Domain Name incorporating this trademark.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name.

The Panel notes that, at the time of submitting the Complaint, the Domain Name resolved to the Website, which promoted services and content closely related to the Complainant, including references to its HOERBIGER trademark and industry focus. The Website was purportedly operated by the entity ХЭРБИГЕРСЕРВИС LTD. While it is unclear whether such entity actually exists and whether any such services have actually been provided through the Website, regardless of whether the Respondent registered that as a corporate name, there is no evidence before the Panel, in the absence of any Response, to suggest that the Respondent has been commonly known by the Domain Name. In this regard, the Panel notes that the incorporation of a company without further evidence of a legitimate business cannot give rise to rights or legitimate interests.

Furthermore, it is worth noting that the name of the company allegedly operating the Website includes a transliteration of the Complainant's trademark which is also a part of the Complainant's company name (and in its transliteration into English reads as "HOERBIGERSERVICE LTD"). The Panel takes the view that such use of the Domain Name, coupled with its composition, does not confer rights or legitimate interests on the Respondent, as it falsely suggests an association with the Complainant.

For completeness, prior UDRP panels have recognized, further to section 2.8.1 of the [WIPO Overview 3.0](#), that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the "Ok! Data test", the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to "corner the market" in domain names that reflect the trademark.

In the present case, the above referred requirements are not met. The Domain Name itself, along with the Website, falsely suggests an affiliation with the Complainant and its HOERBIGER trademark. The Panel believes that the use of the Complainant's trademark in the Domain Name and at the Website misleads Internet users regarding the lack of relationship between the Respondent and the Complainant, as Internet users may falsely believe that the Respondent is an entity associated with the Complainant. At the same time, the relationship between the Respondent and the Complainant (or a lack thereof) is not disclosed on the Website. This perpetuated the false impression of a relationship between the Respondent and the Complainant.

Additionally, the Respondent does not use the Website solely to offer HOERBIGER trademarked goods or services of the Complainant, but instead promotes a broader range of goods and services, including those unrelated to the Complainant.

Given the above, there are no circumstances in evidence which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests of the Respondent in respect of the Domain Name. Thus, there is no evidence in the case record that refutes the Complainant's prima facie case. In sum, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Under the third element, the Complainant must prove that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes, without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the HOERBIGER trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration. This finding is supported by the Respondent's prior employment with the Complainant (the allegation which was not rebutted by the Respondent), his familiarity with the Complainant's business and customer base, the use of the HOERBIGER mark in the Domain Name and on the Website, and the promotion of services closely related to those offered by the Complainant. In addition, nothing in the case file indicates that the Respondent was ever authorized to register a domain name incorporating the Complainant's HOERBIGER trademark, whether during or after his employment with the Complainant.

Moreover, it has been proven to the Panel's satisfaction that the Complainant's HOERBIGER trademark is well known and unique to the Complainant. Thus, the Respondent could not reasonably ignore the reputation of goods and services under this trademark, while offering services in the same business segment. In sum, the Respondent, more likely than not, registered the Domain Name with the expectation of taking advantage of the reputation of the Complainant's HOERBIGER trademark.

The Panel thus finds, on the balance of probabilities, that the Domain Name has been used in bad faith by the Respondent to attract Internet users to the Website. The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Website.

For the reasons discussed above, the Panel finds the third element of the Policy has been established.

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 <hoerbiger-service.com> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: July 21, 2025