

ADMINISTRATIVE PANEL DECISION

China Three Gorges Brasil Energia S.A. v. Ctg Energia, CTG
Case No. DCO2023-0111

1. The Parties

The Complainant is China Three Gorges Brasil Energia S.A., Brazil, represented by Opice Blum, Brazil.

The Respondent is Ctg Energia, CTG, Brazil.

2. The Domain Name and Registrar

The disputed domain name <ctgbr.co> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 20, 2023. On December 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 21, 2023, 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 (GoDaddy.Com, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 22, 2023, 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 January 2, 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 January 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 31, 2024.

The Center appointed Alvaro Loureiro Oliveira as the sole panelist in this matter on February 14, 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 China Three Gorges Brasil Energia S.A., a Brazilian corporation, doing business in the field of production and distribution of energy. The Complainant is one of the biggest energy productions in Brazil, doing business for over 10 years.

The Complainant owns nine registrations for trademarks CTG and CTG BRASIL, under numbers 912472464, 912472553, 912472685, 912469560, 912469633, 912469641, 912471298, 912471514 and 912471689. These marks are all registered in Brazil on November 6, 2018. These marks are resulting from applications filed as early as March 2017, and cover services from international cases 35, 39 and 40. Annex 6 to the Complaint provides evidence the existence of these registrations.

The Complainant also holds its main domain name, <ctgbr.com.br>, registered on April 25, 2014, formed by the mark CTG plus “BR”, as states Annexes 7 and 8. The disputed domain name reproduces this prior one, with a mere inclusion of a different extension “.co”.

The disputed domain name was registered on June 27, 2023. The disputed domain name redirects to the Complainant’s official page.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant’s mark registered and used worldwide.

The Complainant alleges that the Respondent does not have rights or legitimate interests in the disputed domain name.

The Complainant contends that the disputed domain name was registered and is being used in bad faith.

The Complainant submitted evidence that the Respondent is using the disputed domain name in connection with a fraudulent phishing scheme designed to lure consumers into believing that they are dealing with the Complainant, as stated by Annex 9.

B. Respondent

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

6. Discussion and Findings

The Policy, in its paragraph 4(a), determines that three elements must be present and duly proven by a complainant to obtain relief. These elements are:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii. the Respondent has no rights or legitimate interests in respect to 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

The disputed domain name is confusingly similar to the CTG trademark, as it is entirely incorporated in the disputed domain name with the sole addition of the letters “br”.

The Complainant has presented consistent evidence of ownership of the trademarks CTG and CTG BRASIL, by presenting a substantial number of registrations for them granted over five years prior to the registration of the disputed domain name.

Given the above, the Panel concludes that the disputed domain name is confusingly similar to the registered trademark of the Complainant.

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.

Given the clear evidence that the trademark CTG is registered in the name of the Complainant and is widely known as identifying the Complainant’s activities, that the Complainant has not licensed this to the Respondent, and evidence that the Respondent is using the disputed domain name in connection with a fraudulent phishing scheme the Panel finds that the Complainant has established prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name.

In the absence of a Response, the Respondent has not rebutted such prima facie case. Furthermore, the Respondent does not appear to be commonly known by the disputed domain name.

As previously mentioned, the disputed domain name has been used in connection with a scheme to lure consumers, impersonating the Complainant’s commercial vice president. The Complainant has submitted evidence that the Respondent has used the disputed domain name in connection with a fraudulent phishing scheme designed to lure consumers into falsely believing that they were dealing directly with the Complainant (Annexes 9 and 10 to the Complaint). Panels have held that the use of a domain name for illegal activity, here a phishing and impersonation scheme, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds that the Complainant has established prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. In the absence of a Response, the Respondent has not rebutted such prima facie case.

The Panel, thus, finds for the Complainant under the second element of the Policy.

C. Registered and Used in Bad Faith

Given the circumstances of this case, the facts outlined in sections A and B above can also evidence the Respondent’s bad faith in the registration and use of the disputed domain name.

The Respondent intended to give an overall impression that the disputed domain name is associated with the Complainant, and the Panel accepts that the disputed domain name is intended to capitalize on the fame and goodwill of the Complainant's trademark. The disputed domain name has been used to impersonate the Complainant, by using personal data from the Complainant employee and even tried to pretend to be the Complainant's employee. The Respondent has acted in bad faith by registering and using the disputed domain name as part of a phishing scam to impersonate the Complainant, as seen in Annexes 9 and 10 to the Complaint. Panels have held that the use of a domain name for illegal activity, here a phishing and impersonation scheme, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

All the points above lead to the conclusion by this Panel that the Respondent was fully aware of the Complainant when registering the disputed domain name and that the Respondent registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has also proved 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 <ctgbr.co> be transferred to the Complainant.

/Alvaro Loureiro Oliveira/

Alvaro Loureiro Oliveira

Sole Panelist

Date: March 1, 2024.