

WIPO Arbitration and Mediation Center  
Zaak-/rolnummer: DNL2012-0015  
Datum: 25 mei 2012

### **1. The Parties**

The Complainant is Petroleo Brasileiro S.A. - Petrobras of Rio de Janeiro, Brazil, represented by Siqueira Castro Advogados, Brazil.

The Respondent is [verweerder] of Rotterdam, The Netherlands.

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

The disputed domain name <petrobras.nl> (the “Domain Name”) is registered with SIDN through One.com A/S.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 28, 2012. On March 29, 2012, the Center transmitted by email to SIDN a request for registrar verification in connection with the Domain Name. On March 30, 2012, SIDN 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 Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 3, 2012. In accordance with the Regulations, article 7.1, the due date for Response was April 23, 2012. On April 9 and April 14, 2012, the Center received email communications from the Respondent. The Respondent did not submit any formal Response. Accordingly, the Center notified the Respondent’s default on April 25, 2012.

The Center appointed Remco M.R. van Leeuwen as the panelist in this matter on May 9, 2012. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

### **4. Factual Background**

#### *Complainant*

The Complainant is one of the world’s largest energy companies with offices in 28 countries in the world, among which The Netherlands.

The Complainant is the owner of, insofar as relevant for this proceeding, the following trademarks (hereinafter: the “Trademarks”):

- Community trademark PETROBRAS, registered on February 4, 2005, under number 3080141 in class 4.
- Community trademark PETROBRAS, registered on February 24, 2003, under number 3068211 in classes 1, 4, 35, 39 and 42.

#### *Respondent*

The first date of the registration of the Domain Name is October 24, 2005. The Domain Name was first registered by the Respondent on September 22, 2010. According to the Complainant, the Domain Name is linked to a page offering the Domain Name for sale.

## **5. Parties' Contentions**

### *A. Complainant*

A trademark or trade name protected under Dutch law  
The Complainant claims that it satisfies the criteria set out in article 2.1(a) of the Regulations as it is entitled to the Trademarks. It is unclear to the Panel if the Complainant is also claiming Dutch trade name rights.

The Respondent has no rights to or legitimate interests in the Domain Name

The Complainant remarks that it is one of the biggest and most important oil companies in the world. The Respondent does not run any business under the name "Petrobras" and has never used such expression to identify its products or services. In addition the Complainant states that as far as it is aware the Respondent does not own any trademark application or registration for the word "Petrobras", and the Complainant never authorized the use of its Trademarks by the Respondent.

The Domain Name has been registered or is being used in bad faith

According to the Complainant, it was established in Brazil in 1953 and now has operations in 28 countries on five continents, including The Netherlands. Therefore, the Complainant deems it impossible that the Respondent was not aware of the Complainant and its use of the Trademarks at the time of registration of the Domain name. Moreover, when the Complainant wrote to the Respondent requesting transfer of the Domain Name, the Respondent repeatedly asked for a "transfer fee" and refused to transfer the Domain Name otherwise. Further, the Complainant claims that the Domain Name is being offered for sale on the web page linked to the Domain Name, which is a clear indication of a registration made in bad faith.

### *B. Respondent*

The Respondent did not formally reply to the Complainant's contentions. The Respondent sent two email communications to the Center in which it indicated its willingness to transfer the Domain Name to the Complainant.

## **6. Discussion and Findings**

In accordance with article 10.3 of the Regulations, since no formal Response has been filed by the Respondent, the Panel will have to decide purely based on the Complaint. Based on this article, the Panel will have to grant the Complaint unless it seems unlawful or without merit. Therefore, the Panel will review the Complaint on this basis.

### *A. Identical or Confusingly Similar*

The Complainant has provided evidence that it is the owner of two Community trademarks for PETROBRAS. The Domain Name is identical to this trademark.

The Panel therefore rules that, based on the Complainant's rights in the Trademarks, the Complainant has met the first ground of the Regulations as set out in article 2.1(a) under I.

### *B. Rights or Legitimate Interests*

The Complainant states that the Respondent has no rights to or legitimate interests in the Domain Name. As far as the Complainant is aware, the Respondent is not entitled to any trademark registration for the word "Petrobras", nor has the Complainant granted permission to use the Trademarks. Moreover, according to Complainant, the Domain Name is linked to a webpage stating that the Domain Name is for sale.

Because the Respondent did not file any substantive Response, the Panel is not aware of any rights or legitimate interests that the Respondent may have in the Domain Name and will have to presume it has none.

The Panel therefore rules that the Complainant has met the second ground of the Regulations as set out in article 2.1(b).

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

According to the Complainant, the Respondent has repeatedly asked for a "fee" to transfer the Domain Name and is offering the Domain name for sale on the page linked to the Domain Name. Article 3.2(a) of the Regulations specifically mentions the registration of a domain name for the purpose of selling it to the complainant or the complainant's competitors for valuable consideration in excess of the cost of registration as evidence of registration in bad faith. Taking furthermore into account the notoriety of the Complainant and its Trademarks, the Panel concludes that the Domain Name was registered primarily for the purpose of selling it to the Complainant or its competitors for valuable consideration in excess of the cost of registration.

The Panel therefore rules that the Complainant has met the third ground of the Regulations as set out in article 2.1(c).

## **7. Decision**

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Domain Name <petrobras.nl> be transferred to the Complainant.

**Remco M.R. van Leeuwen**

Panelist

Dated: May 25, 2012