

## Decision for dispute CAC-UDRP-103737

Case number CAC-UDRP-103737

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Time of filing 2021-04-15 10:07:25

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Domain names pentair.news

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### Case administrator

Name Iveta Špiclová (Case admin)

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### Complainant

Organization Pentair Flow Services AG

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### Complainant representative

Organization HSS IPM GmbH

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### Respondent

Name Gabriella Garlo

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#### OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

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#### IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of several trademark registrations consisting of the term "PENTAIR" in particular international trademark no. 873816 PENTAIR registered on 06.06.2005 for goods in classes 7,9,11 and 20.

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#### FACTUAL BACKGROUND

##### FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

1. The Complainant belongs to the Pentair Group, a water treatment organization with its parent company Pentair plc incorporated in Ireland and its main US office in Minneapolis, Minnesota. Pentair plc was founded in the US in 1966. The Pentair Group comprises many subsidiaries worldwide and has 10,000 employees from approximately 120 locations in 25 countries.

The Complainant further contends the distinctiveness and reputation of its trademark PENTAIR worldwide.

Moreover, the Complainant uses various domain names including the term "PENTAIR", in particular <pentair.com>, the

official website of the Pentair's Group, which was created on 17.10.1996.

2. The disputed domain name <pentair.news> was created on 31.03.2021.

Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to a parking page comprising pay-per-click links, which are related to the sector in which the Complainant operates and that the disputed domain name is offered for sale (via Sedo for a minimum offer amount of 899 USD).

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#### PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

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#### NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

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#### BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

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#### PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

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#### PRINCIPAL REASONS FOR THE DECISION

1. The Panel finds that the disputed domain name <pentair.news> is confusingly similar to the Complainant's trademark. Many panels have found that a domain name is confusingly similar to a complainant's trademark where the domain name incorporates the complainant's trademark in its entirety. This is the case in the case at issue where the Complainant's registered trademark "PENTAIR" is fully included in the disputed domain name. Finally, it is the view of this Panel that the addition of the Top Level Domain in the disputed domain name - i.e. ".news" - represents a standard registration requirement and has to be disregarded in determining the confusing similarity, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0") at point 1.11.1.

2. In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name <pentair.news>.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way, and he is not related in any way to the Complainant's business. In addition, the Respondent is not commonly known by the disputed domain name.

In addition, it results from the undisputed evidence before the Panel that the disputed domain name resolved to a parking website comprising pay-per-click links that compete with or capitalize on the Complainant's trademark. UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead internet users (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") at

section 2.9 with further references). This Panel shares this view. In particular, the Panel is satisfied that the registered trademark "PENTAIR" is distinctive. Therefore, such use can neither be considered as bona fide offering of goods or services nor a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

3. Finally, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith.

The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, in particular, but without limitation, be evidence of the disputed domain name's registration and use in bad faith. One of these circumstances is that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name (paragraph 4(b)(i) of the Policy).

It is the view of this Panel that the Respondent has actually registered the disputed domain name primarily for the purpose of selling it either to the Complainant or to third persons, in particular to one of the Complainant's competitors, for valuable consideration in excess of the documented out-of-pocket costs directly related to the disputed domain name.

According to the Complainant's uncontested allegations the Respondent has offered the disputed domain name for sale on the domain marketplace Sedo (i.e. for a minimum offer amount of 899 USD). This Panel finds that this sum is in excess of any out-of-pocket costs directly related to the disputed domain name (see e.g. *Expanscience v. Sarah Hampton*, WIPO Case No. DCO2020-0064; *T. Rowe Price Group, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. D2019-1955; *Linatex Limited v. Yunkook Jung*, WIPO Case No. D2019-1784).

In addition, this finding of bad faith registration and use is further supported by the further circumstances resulting from the case at hand, which are the following: (i) the Respondent's failure to submit a response or to provide any evidence of actual or contemplated good-faith use; (ii) the Respondent's concealing its identity (iii) the implausibility of any good faith use to which the disputed domain name may be put; (iv) the disputed domain name resolving to a parking page comprising pay-per-click links which are clearly related to the sector in which the Complainant operates (see section 3.5 of WIPO Overview 3.0).

The use of the disputed domain name to resolve a parking page is evidence of bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In the light of the above the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **PENTAIR.NEWS**: Transferred

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## PANELLISTS

Name	Dr. Federica Togo
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DATE OF PANEL DECISION 2021-05-26

