

## **ADMINISTRATIVE PANEL DECISION**

TotalEnergies SE v. Betruse Zambass  
Case No. D2022-0554

### **1. The Parties**

The Complainant is TotalEnergies SE, France, represented by In Concreto, France.

The Respondent is Betruse Zambass, United Kingdom.

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

The disputed domain name <totalenergiesgroup.com> is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 17, 2022. On February 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 22, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 22, 2022 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 February 24, 2022.

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 March 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 28, 2022.

The Center appointed Taras Kyslyy as the sole panelist in this matter on April 1, 2022. 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 an energy company that produces and markets energies on a global scale: oil and biofuels, natural gas and green gases, renewables and electricity. The Complainant has over 100,000 employees operating in more than 130 countries.

The Complainant was established in France in 1924 and changed its name and brand several times, in particular to TOTAL– Compagnie française des pétroles in June 21, 1985, TOTAL in June 26, 1991, and finally TotalEnergies SE in May 28, 2021. The last change was announced in advance in February 2021 and then widely communicated before its completion.

The Complainant owns registrations for TOTAL ENERGIES trademark in a number of jurisdictions, including for instance European Union registration No. 018308753, registered on May 28, 2021.

The disputed domain name was registered on January 28, 2022 and redirected to the Complainant's website. Currently it resolves to a parking webpage.

#### **5. Parties' Contentions**

##### **A. Complainant**

The disputed domain name is identical or confusingly similar to the Complainant's trademark. The disputed domain name incorporates the entirety of the Complainant's trademark. The addition of the term "group" is a reference to the structure of the Complainant.

The Respondent has no rights or legitimate interests in the disputed domain name. There are no registered or filed for registration TOTAL ENERGIES trademarks in the name of the Respondent. The Respondent has not been commonly known by the disputed domain name. The Complainant has not authorized, licensed, or permitted the Respondent to use any of its trademarks or to apply for or use any domain name incorporating the Complainant's trademark.

The disputed domain name was registered and is being used in bad faith. Registration of the disputed domain name confusingly similar to the Complainant's trademark without respective rights or legitimate interests of the Respondent and without authorization confirms the bad faith. It is very unlikely that the Respondent chose the disputed domain name without any knowledge of the famous company name, domain names or trademarks of the Complainant, even more while the disputed domain name is redirecting to the main website of the Complainant. It would be possible for the Respondent to take advantage of the redirection to the main website of the Complainant to fraudulently pass itself off as the Complainant by using an email address featuring the disputed domain name for phishing or scam purposes. The Respondent used false contact information when registering the disputed domain name to avoid his identification.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

According to section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "WIPO Overview 3.0") the applicable generic Top-Level Domain ("gTLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is

disregarded under the first element confusing similarity test. Thus, the Panel disregards gTLD “.com” for the purposes of the confusing similarity test.

According to section 1.7 of the [WIPO Overview 3.0](#) in cases where a domain name incorporates the entirety of a trademark the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. The Panel finds that in the present case the disputed domain name incorporates the entirety of the Complainant's trademark.

According to section 1.8 of the [WIPO Overview 3.0](#) 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. The Panel finds that the addition of the term “group” to the disputed domain name does not prevent a finding of the confusing similarity.

Considering the above the Panel finds the disputed domain name is confusingly similar to the Complainant's trademark, therefore, the Complainant has established its case under paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name.

Furthermore, the Respondent provided no evidence that it holds rights or legitimate interests in the disputed domain name.

Based on the available evidence the Respondent is not commonly known by the disputed domain name, which could demonstrate its rights or legitimate interests (see, e.g., *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#)).

The Complainant did not license or otherwise agree for use of its prior registered trademark by the Respondent, and, in the circumstances of this case, no actual or contemplated *bona fide* or legitimate use of the disputed domain name could be reasonably claimed (see, e.g., *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#)).

The Respondent has no rights or legitimate interests in the disputed domain name resolving to a parking webpage (see, e.g., *Philip Morris USA Inc. v. Daniele Tomatore*, WIPO Case No. [D2016-1302](#)).

Noting the high risk of implied affiliation between the disputed domain name and the confusingly similar well-known trademark of the Complainant, the Panel finds that there is no plausible fair use to which the disputed domain name could be put that would not have the effect of being somehow connected to the Complainant (see, e.g., *Instagram, LLC v. Super Privacy Service LTD c/o Dynadot / Zayed*, WIPO Case No. [D2019-2897](#)).

Considering the above the Panel finds the Respondent does not have rights or legitimate interests in the disputed domain name. Therefore, the Complainant has established its case under paragraph 4(a)(ii) of the Policy.

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

According to section 3.2.2 of the [WIPO Overview 3.0](#) further factors including the nature of the domain name, the chosen Top-Level Domain, any use of the domain name, or any respondent pattern, may obviate a respondent's claim not to have been aware of the complainant's mark. In the present case the Respondent shortly after registration of the disputed domain name fully incorporating the Complainant's trademark arranged for its redirection to the Complainant's website. Also, the registration of the disputed domain name occurred some months after wide media campaign initiated by the Complainant to present its updated trademark. The Panel finds that the nature of the disputed domain name and its use confirm the

Respondent knew or should have known of the Complainant's prior trademark rights, and leads to a finding of bad faith.

According to section 3.1.4 of the [WIPO Overview 3.0](#) the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Panel is convinced that the Complainant's trademark is well established through long and widespread use and the Complainant has acquired a significant reputation and level of goodwill in its trademark both in France and internationally. Thus, the Panel finds that the disputed domain name confusingly similar to the Complainant's trademark was registered in bad faith.

According to paragraph 4(b)(iv) of the Policy the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith: by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location. In this case, the disputed domain name confusingly similar to the famous trademark of the Complainant was redirecting to the Complainant's website to increase traffic at the disputed domain name and potentially allow monetizing on it. The Panel finds the above confirms the disputed domain name was registered and used in bad faith.

Although at the time of this decision the disputed domain name resolves to a parking webpage, its previous bad faith use and lack of explanation of possible good faith use from the Respondent makes any good faith use of the disputed domain name implausible. Thus, the current passive holding of the disputed domain name does not prevent a finding of bad faith (see, e.g., *Abbott Diabetes Care Inc. v. Privacy Protection, Hosting Ukraine LLC / Виталий Броцман (Vitalii Brocman)*, WIPO Case No. [DPW2017-0003](#)).

Considering the above the Panel finds the disputed domain name was registered and is being used in bad faith. Therefore, the Complainant has established its case under paragraph 4(a)(iii) 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 <totalenergiesgroup.com> be transferred to the Complainant.

/Taras Kyslyy/

**Taras Kyslyy**

Sole Panelist

Date: April 8, 2022