

ADMINISTRATIVE PANEL DECISION

TotalEnergies SE v. Domain Administrator, Registrant of purchase-totalenergies.com / Albert Clement, Purchase Total Energies; Privacy service provided by Withheld for Privacy ehf / Harry Moore, Total; Junior Stephane, Total Energies Procurements; David Hahn, Global Data; Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Sylvester Galphin; Zandie Dlamini; Proxy Protection LLC / Sharon Mohale; Junior McDonald; MARIN ABELANET
Case No. D2022-3069

1. The Parties

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

The Respondents are Domain Administrator, Registrant of purchase-totalenergies.com, United Kingdom / Albert Clement, Purchase Total Energies, South Africa; Privacy service provided by Withheld for Privacy ehf, Iceland / Harry Moore, Total, Canada; Junior Stephane, Total Energies Procurements, South Africa; David Hahn, Global Data, United States of America ("USA"); Domain Admin, Privacy Protect, LLC (PrivacyProtect.org), USA / Sylvester Galphin, USA; Zandie Dlamini, South Africa; Proxy Protection LLC, USA / Sharon Mohale, South Africa; Junior McDonald, South Africa; MARIN ABELANET, France

2. The Domain Names and Registrars

The disputed domain name <purchase-totalenergies.com> is registered with Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji.

The disputed domain names <totalenergies-globalprocurement.com>, <totalenergies-procurement.com>, and <total-globalprocurement.com> are registered with NameCheap, Inc.

The disputed domain name <totalenergies-investment.com> is registered with EuroDNS S.A.

The disputed domain name <totalenergies-procurements.com> and <totalprocuring.com> are registered with Launchpad.com Inc.

The disputed domain name <totalprocuredepartments.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com.

The disputed domain name <totalprocurement.com> is registered with DreamHost, LLC (collectively referred to, along with the Atak Domain Hosting Internet ve Bilgi Teknolojileri Limited Sirketi d/b/a Atak Teknoloji, NameCheap, Inc., EuroDNS S.A., Launchpad.com Inc., and PDR Ltd. d/b/a PublicDomainRegistry.com, as the “Registrars”).

The disputed domain names will collectively hereinafter be referred to as “Domain Names” unless otherwise indicated.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 19, 2022. On August 19, 2022, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On August 19, 20, 22, and 25, 2022, the Registrars transmitted by email to the Center their separate verification responses disclosing registrant and contact information for the disputed domain names, which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on August 29, 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 August 31, 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 September 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 22, 2022. None of the Respondents submitted any response. Accordingly, the Center notified the Respondents’ default on September 23, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on September 30, 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. Procedural Issue: Consolidation of Respondents

The Panel has considered the possible consolidation of the Complaint for the Domain Names. According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.2, “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”.

The Panel notes the following features of the Domain Names and arguments submitted by Complainant in favor of the consolidation of all the Domain Names:

- the TOTAL trademark of Complainant is present in all Domain Names;
- the TOTALENERGIES trademark of Complainant is present in five out of nine Domain Names;
- all Domain Names have a common naming pattern: Complainant’s trademark plus descriptive or non-distinctive terms (procure, manage, purchase, investment and variants thereof);
- the terms “procure”, “procuring” or “procurement(s)” are reproduced in eight out of nine of the Domain Names, while the other two include similar in meaning words (*i.e.*, “purchase”, “investment”);
- all Domain Names were created within a year: *i.e.*, from August 29, 2021 to June 27, 2022;

- none of the Domain Names resolves to an active website; most of them are either inaccessible or suspended;
- all Domain Names are under the same “.com” extension;
- some Registrars are the same: NameCheap (for three Domain Names), Launchpad.com Inc. (for two Domain Names);
- eight Domain Names used a Privacy service or an anonymization shield/proxy;
- three Domain Names were used in a financial scam and scammers even shared the same fake identity.

Additionally, the Panel notes that the disclosed information for the Respondents includes references to the Complainant’s name and trademarks, reinforcing the view that such information is false and used for misleading purposes. Accordingly, the Panel finds that consolidation of the Domain Names is fair to the Parties, and Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint (if indeed there are more than one Respondent for these Domain Names) but have chosen not to rebut the consolidation (see [WIPO Overview 3.0](#), section 4.11.2; *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#)). Based on the file, the Panel finds that it is more likely than not that, the Domain Names are in common control of one entity, and hence the Panel grants the consolidation for the above Domain Names (and will refer to these Respondents as “Respondent”).

5. Factual Background

Complainant is a French company operating in the energy sector. It operates worldwide in more than 130 countries. Its business includes all aspects of the energy industry, including biomass, wind, solar, and natural gas. Its main website operates at “www.totalenergies.com”. Complainant was originally founded under the name “Compagnie Française des Pétroles” in 1924 which changed to “TOTAL – Compagnie française des pétroles” in June 21, 1985, “TOTAL” in June 26, 1991, and “TotalEnergies SE” in May 28, 2021. Complainant owns a French subsidiary named “Totalenergies Global Procurement” (previously “Total Global Procurement”).

Complainant owns several trademark registrations for TOTAL and TOTAL ENERGIES, among which:

- French Trademark Registration No. 1540708 for TOTAL, registered on May 12, 1988, for goods and services in international classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 28, 29, 30, 31, 32, 33, and 34;
- International Trademark Registration No. 591228 for TOTAL registered on August 3, 1992, for goods and services in international classes 1, 2, 3, 4, 5, 9, 11, 16, 17, 19, 37, 39, 41, and 42; and
- European Trademark Registration No. 018308753, for TOTAL ENERGIES, filed on September 17, 2020, and registered on May 28, 2021, for goods and services in international classes 1, 2, 3, 4, 5, 6, 7, 9, 11, 14, 16, 17, 18, 19, 20, 21, 25, 28, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 45.

Complainant owns several domain names incorporating the trademark TOTAL / TOTAL ENERGIES, including:

- <total.com> registered on December 31, 1996;
- <totalenergies.com> registered on September 17, 2020; and
- <totalglobalprocurement.com> registered on June 14, 2019.

The Domain Names were registered on the following dates:

- 1 <totalprocurementmanagement.com> on September 28, 2021
- 2 <totalprocuring.com> on September 15, 2021
- 3 <purchase-totalenergies.com> on December 9, 2021

- 4 <totalenergies-procurement.com> on April 13, 2022
- 5 <totalenergies-procurements.com> on April 25, 2022
- 6 <totalenergies-globalprocurement.com> on June 27, 2022
- 7 <total-globalprocurement.com> on August 29, 2021
- 8 <totalenergies-investment.com> on June 23, 2022
- 9 <totalprocuredepartments.com> on December 6, 2021.

The Domain Names lead at the time of filing of the Complaint to inactive or suspended websites. Three Domain Names were previously used to create email addresses that were used in fraudulent schemes, reported to Complainant by Complainant's partners and customers. Currently they all lead to inactive, blocked or inaccessible websites.

6. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Names.

B. Respondent

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

7. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements that Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Complainant has demonstrated rights through registration and use on the TOTAL / TOTAL ENERGIES mark.

The Panel finds that the Domain Names are confusingly similar with the TOTAL / TOTAL ENERGIES trademark of Complainant.

The Domain Names incorporate one of the said trademarks of Complainant entirely. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The addition of the words "global", "management", "procure(d)(ing)(ment/s)", "purchase", "investment", and "departments" or of hyphens in the Domain Names does not prevent a finding of confusing similarity as the TOTAL / TOTAL ENERGIES mark remains clearly recognizable ([WIPO Overview 3.0](#), section 1.8).

The generic Top-Level Domains ("gTLD") ".com" is also disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons only (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#)).

The Panel finds that the Domain Names are confusingly similar to the TOTAL / TOTAL ENERGIES trademark of Complainant.

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

(i) before any notice to Respondent of the dispute, Respondent's use of, or demonstrable 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; or

(ii) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, even if it has acquired no trademark or service mark rights; or

(iii) 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 or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Names.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Names. As per Complainant, Respondent was not authorized to register the Domain Names.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Names or a trademark corresponding to the Domain Names in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Names lead to inactive or suspended websites, and three were previously used to create email addresses and send emails purportedly of Complainant in the context of a fraud scheme. Use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#), section 2.13.1). Moreover, the composition of the Domain Names carries a risk of implied affiliation to the Complainant, capitalized upon by the Respondent in the instances of the fraudulent email schemes, which cannot constitute fair use.

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Names.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in "bad faith":

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the Domain Name; or

(ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Names in bad faith.

Because the TOTAL / TOTAL ENERGIES mark had been widely used and registered by Complainant before the Domain Names' registration, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Names (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); and *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Respondent should have known about Complainant's rights, as such knowledge is readily obtainable through a simple browser search (see *Caesars World, Inc. v. Forum LLC.*, WIPO Case No. [D2005-0517](#); and *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

Furthermore, Respondent could have conducted a trademark search and would have found Complainant's prior registrations in respect of TOTAL / TOTAL ENERGIES (*Citrix Online LLC v. Ramalinga Reddy Sanikommu Venkata*, WIPO Case No. [D2012-1338](#)).

Lastly, three Domain Names were used by Respondent to impersonate Complainant in an email fraud scheme. This further removes any doubt that Respondent knew of Complainant and chose the Domain Names with knowledge of Complainant and its industry. Similarly, the Respondent's information disclosed by the Registrars also included organizations under the Complainant's trademarks, reinforcing the intent of the Respondent to impersonate the Complainant when registering the Domain Names.

As regards to bad faith use, Complainant demonstrated that the Domain Names lead to inactive websites, and three were previously employed to send fraudulent emails impersonating Complainant.

Use of Complainant's trademark and logos for a fraudulent email scam evidences that Respondent was obviously aware of Complainant and has deliberately targeted its business. Furthermore, use of a domain name for purposes such as phishing or identity theft, constitutes bad faith use ([WIPO Overview 3.0](#), section 3.4).

The non-use of a domain name would not prevent a finding of bad faith (See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); and [WIPO Overview 3.0](#), section 3.3). Given the Respondent's silence in this proceeding, the various privacy services engaged to mask the Respondent's details, and the implausibility of any good-faith use to which the Domain Names could be put, especially given the prior fraudulent email scheme to which a few of the Domain Names were engaged, the totality of the circumstances support an inference of bad faith.

Under these circumstances and on this record, the Panel finds that Respondent has registered and is using the Domain Names in bad faith.

Complainant has established Policy, paragraph 4(a)(iii).

8. 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 names, <purchase-totalenergies.com>, <totalenergies-globalprocurement.com>, <totalenergies-investment.com>, <totalenergies-procurement.com>, <totalenergies-procurements.com>, <total-globalprocurement.com>, <totalprocuredepartments.com>, <totalprocuremanagement.com>, and <totalprocuring.com> be transferred to the Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: October 14, 2022