

ADMINISTRATIVE PANEL DECISION

TotalEnergies SE v. greenland greenland, Mark Holly, Sharon Mohale, David Hahn, Richard Carter, Ben Ben Adams
Case No. D2022-3959

1. The Parties

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

The Respondents are greenland greenland, United States of America (“USA”), Mark Holly, South Africa, Sharon Mohale, South Africa, David Hahn, USA, Richard Carter, United Kingdom (“UK”), Ben Ben Adams, Nigeria.

2. The Domain Names and Registrar

The disputed domain names <totalenergiespurchase.com>, <totalenergiessupplychain.com>, <totalprocuremanagements.com>, <total-procurement.xyz> and <total-supplychains.com> are registered with NameCheap, Inc. (the “First Registrar”).

The disputed domain name <totalprocurementservices.com> is registered with DreamHost, LLC (the “Second Registrar”).

The disputed domain name <totalsupplychains.com> is registered with Launchpad.com Inc. (the “Third Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 21, 2022. On October 21, 2022, the Center transmitted by email to the First and Second Registrars a request for registrar verification in connection with the disputed domain names. On October 24, 2022, the First and Second Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Privacy service provided by Withheld for Privacy ehf, Proxy Protection LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 31, 2022, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint.

The Complainant filed the first amended Complaint on November 4, 2022, including additional domain names. On November 7, 2022, the Center transmitted by email to the First and Third Registrars a request for registrar verification in connection with the additional disputed domain names. On November 7, 2022, the First and Third Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 8, 2022, providing the registrant and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed the second amended Complaint (the "Amended Complaint") on November 10, 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 Respondents of the Complaint, and the proceedings commenced on November 14, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on December 5, 2022.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on December 19, 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 was originally created under the name of "Compagnie Française des Pétroles" and registered before the French Companies Registry on March 28, 1924. Subsequent legal names changes took place since then, having the Complainant adopted the term "TOTAL" since June 21, 1985, when its denomination was changed to "TOTAL – Compagnie Française des Pétroles". On June 26, 1991 its name was changed to "TOTAL" and then, on May 28, 2021, to "TotalEnergies SE".

The Complainant is also the parent company of a French subsidiary named TOTALENERGIES GLOBAL PROCUREMENT, previously named TOTAL GLOBAL PROCUREMENT, registered under no. 539 072 819.

The Complainant's business includes all aspects of the energy industry, including natural gas and solar energy operations. It is the owner of the following, amongst other, trademark registrations:

- French registration No. 1540708 for the word mark TOTAL, registered on December 5, 1988, subsequently renewed, in classes 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 28, 29, 31, 32, 33, and 34;
- International registration No. 591228 for the mark TOTAL & device, registered on August 3, 1992, subsequently renewed, in classes 1, 2, 3, 4, 5, 9, 11, 16, 17, 19, 37, 39, 41, and 42;
- European Union registration No. 018308753 for the word mark TOTAL ENERGIES, filed on September 17, 2020, registered on May 28, 2021, in 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;
- European Union registration No. 018392850 for the mark TOTAL ENERGIES & device, filed on February 8, 2021, registered on June 25, 2021, in classes 1, 2, 3, 4, 5, 6, 7, 9, 11, 12, 14, 16, 17, 18, 19, 20, 21, 25, 28, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 45; and

- International trademark registration No. 1601092 for the mark TE TOTAL ENERGIES & device, registered on May 18, 2021, in classes 1, 2, 3, 4, 5, 6, 7, 9, 11, 12, 14, 16, 17, 18, 19, 20, 21, 25, 28, 35, 36, 37, 38, 39, 40, 41, 42, 43, and 45.

The disputed domain names are the following:

Disputed domain name	Registration Date	Present use
totalenergiespurchase.com	September 16, 2022	Parked webpage with no active content.
totalenergiessupplychain.com	March 12, 2022	No active webpage.
totalprocuremanagements.com	August 15, 2022	No active webpage.
totalprocurementservices.com	September 25, 2022	Parked webpage with no active content.
total-procurement.xyz	October 27, 2022	No active webpage.
total-supplychains.com	October 10, 2022	Parked webpage with no active content.
totalsupplychains.com	March 6, 2022	Parked webpage with no active content.

5. Parties' Contentions

A. Complainant

According to the Complainant, the disputed domain names are under common control given that all of the disputed domain names: i) share a common naming pattern, reproducing the Complainant's well-known TOTAL trademark with the addition of descriptive terms; ii) were registered over a relatively short period of time (from March 6, 2022 to October 27, 2022); iii) do not resolve to active webpages; iv) have been registered using privacy protection services. In addition to that: v) five of the seven disputed domain names share the same Registrar; vi) four of the seven disputed domain names were used in a financial scam documented by the Complainant; and vii) two of the disputed domain names show as Respondent "greenland greenland"; viii) the Respondents "Sharon Mohale" and "David Hahn" were also named Respondents in the past procedure *TotalEnergies SE v. Domain Administrator and al.*, WIPO Case No. [D2022-3069](#).

The Complainant asserts to be a worldwide and well-known company that produces and markets energies on a global scale: oil and biofuels, natural gas and green gases, renewables, and electricity, operating worldwide in more than 130 countries through a large Group, and numerous subsidiaries. Also according to the Complainant, its businesses include all aspects of the energy industry from production to marketing, as well as in the development of next generation energy activities (biomass, wind), being a major actor in the natural gas segment and a world-leading solar energy operator.

Under the Complainant's view, the disputed domain names all incorporate the Complainant's well-known TOTAL and/or TOTAL ENERGIES trademarks with the addition of descriptive terms related to the activities of the Complainant or of its subsidiary TOTALENERGIES GLOBAL PROCUREMENT.

Regarding the absence of the Respondents' rights or legitimate interests, the Complainant argues that:

- to the best of the Complainant's knowledge, the Respondent does not hold any legitimate rights or interests in the disputed domain names;
- the websites to which the disputed domain names resolve consist of parked or inactive webpages; and
- the Complainant has not authorized, licensed, or permitted anyone, including the Respondent, to register or use the disputed domain names or to use the trademarks at issue.

As to the registration and use of the disputed domain names in bad faith, the Complainant states that:

- i) since TOTAL and TOTALENERGIES are well-known trademarks, and highly distinctive as a whole, it is less likely that the disputed domain names were randomly chosen by the Respondent, rather having the Respondent acquired the disputed domain names to impersonate the Complainant;
- ii) the Respondent has used the disputed domain names <totalprocuremanagements.com>, <total-procurement.xyz>, <total-supplychains.com>, and <totalsupplychains.com> in connection with email addresses for fraudulent and malicious intents (Annexes 12.1 – 12.4 to the Amended Complaint), having sent email communications to third parties impersonating the Complainant and reproducing the Complainant's logos;
- iii) the Respondent is engaged in a pattern of bad faith conduct, having already been found guilty of bad faith registration and use of similar domain names in the previous procedure *TotalEnergies SE v. Domain Administrator and al.*, WIPO Case No. [D2022-3069](#), where "Sharon Mohale" and "David Hahn" were also named Respondents.

B. Respondents

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain names to the Complainant:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondents have no rights or legitimate interests in respect of the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain names.

Before turning to these questions, however, the Panel needs to address the issue of the consolidation of multiple Respondents.

A. Consolidation of Multiple Respondents

The Complainant requests that this Panel accept multiple Respondents in a single proceeding in view of the facts enumerated at the section 5.A. above.

The Respondents have not objected to the common control claim.

In addition to that, section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") establishes that "[w]here 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".

All of the aforementioned criteria are present in this case and therefore this Panel accepts such request considering that it would be more procedurally efficient to have the seven disputed domain names dealt with

in the same proceedings given that i) all of the disputed domain names share a common naming pattern, reproducing the Complainant's well-known TOTAL trademark with the addition of descriptive terms; ii) were registered over a relatively short period of time (from March 6, 2022 to October 27, 2022); iii) do not resolve to active webpages; iv) have been registered using privacy protection services. In addition to that: v) five of the seven disputed domain names share the same Registrar; vi) the disputed domain names <totalprocuremanagements.com>, <total-procurement.xyz>, <total-supplychains.com>, and <totalsupplychains.com> were used in a financial scam documented by the Complainant; vii) the disputed domain names <totalenergiespurchase.com> and <totalenergiessupplychain.com> show as Respondent "greenland greenland"; viii) the disputed domain names <totalprocurementservices.com> and <total-procurement.xyz> have as named Respondents "Sharon Mohale" and "David Hahn", who were also named Respondents in the past procedure *TotalEnergies SE v. Domain Administrator and al.*, WIPO Case No. [D2022-3069](#).

This Panel is satisfied, in view of the evidence submitted and on balance that the disputed domain names are indeed subject to a common control and that consolidation would be fair and equitable to all Parties.

B. Identical or Confusingly Similar

The Complainant has established rights over the TOTAL and TOTAL ENERGIES trademarks duly registered.

The Panel finds that all of the disputed domain names reproduce the Complainant's TOTAL trademark in its entirety, and two of the disputed domain names reproduce the Complainant's TOTAL ENERGIES trademark in its entirety. The addition of the terms "purchase", "supply", "chain", "procure", "managements", "procurement", "services", "-", "supply", or "chains", does not avoid a finding of confusing similarity under the Policy which, as recognized by past UDRP panels, involves a "side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name" ([WIPO Overview 3.0](#), section 1.7.)

For the reasons above, the Panel finds that the disputed domain names are confusingly similar to the Complainant's trademark.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that may indicate the Respondents' rights or legitimate interests in the disputed domain names. These circumstances are:

- (i) before any notice of the dispute, the Respondents' use of, or demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services; or
- (ii) the Respondents (as individuals, businesses, or other organizations) have been commonly known by the disputed domain names, in spite of not having acquired trademark or service mark rights; or
- (iii) the Respondents are making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondents, in not formally responding to the Complaint, have failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain names. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondents.

In that sense, the Panel notes that the Complainant has made out a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names, indeed stating that the Complainant has not authorized, licensed, or permitted anyone, including the Respondents, to register or use the disputed domain names or to use the trademarks at issue. Also, the lack of evidence as to whether the Respondents are commonly known by the disputed domain names or the absence of any trademarks registered by the Respondents corresponding to the disputed domain names, corroborates the indication of an absence of rights or legitimate interests in the disputed domain names.

Moreover and according to the evidence submitted by the Complainant, the use made of the disputed domain names <totalprocuremanagements.com>, <total-procurement.xyz>, <total-supplychains.com>, and <totalsupplychains.com> in connection with a financial scam impersonating the Complainant clearly does not constitute a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain names in these circumstances. The remainder of the disputed domain names appear to have been passively held, which clearly does not reflect a *bona fide* offering of goods or services and considering the composition of all of the disputed domain names, the Panel finds there is a risk of implied affiliation to the Complainant, contrary to the fact, which cannot establish rights or legitimate interests.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain names.

D. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a disputed domain name, where a respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other on-line location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In this case, both the registration and use of the disputed domain names in bad faith can be found pursuant to Policy, paragraph 4(b)(iv), in view of the fraudulent scam perpetrated via the disputed domain names <totalprocuremanagements.com>, <total-procurement.xyz>, <total-supplychains.com>, and <totalsupplychains.com> in an attempt to impersonate the Complainant and its well-known trademarks unduly reproduced in the fraudulent e-mails sent using the mentioned disputed domain names.

Further, the Panel finds that the currently inactive use of the disputed domain names does not prevent a finding of bad faith. Prior UDRP panels have held that the non-use of domain names may support a finding of bad faith when considering factors such as the distinctive nature and reputation of the trademark, the failure of the respondent to file a response, and the implausibility of any good faith use to which the domain name may be put.

Other indications of the Respondents' bad faith lie in the choice to retain a privacy protection service and the indication of what appears to be false contact information, the Center having been unable to fully deliver communications to the Respondents.

For the reasons above, the Panel finds that the Respondents have registered and are using the disputed domain names in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

The third element of the Policy has therefore been met.

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 names <totalenergiespurchase.com>, <totalenergiessupplychain.com>, <totalprocuremanagements.com>, <totalprocurementservices.com>, <total-procurement.xyz>, <total-supplychains.com>, and <totalsupplychains.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: January 2, 2023