

## ADMINISTRATIVE PANEL DECISION

TotalEnergies SE v. Domain Administrator, C/O InMotion Hosting, Inc, / Omega valmo / Richard Carter / greenland greenland / Margurite Hooper / Vincent Mccray / Sherill Anderson, / Concha Hunt / Peter doonson / andrew Kiev, Brockwell Tech / Milen Radumilo / Richard Carter, KTF / John Donovan, Shell Global  
Case No. D2023-0727

### 1. The Parties

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

The Respondents are Domain Administrator, C/O InMotion Hosting, Inc, United States of America (“United States”) / Omega valmo, South Africa / Richard Carter, United Kingdom / greenland greenland, United States / Margurite Hooper, United States / Vincent Mccray, Cook Islands / Sherill Anderson, Portugal / Concha Hunt, Viet Nam / Peter doonson, South Africa / andrew Kiev, Brockwell Tech, South Africa / Milen Radumilo, Romania / Richard Carter, KTF, United Kingdom / John Donovan, Shell Global, South Africa.

### 2. The Domain Names and Registrars

The disputed domain names are registered with the following registrars (the “Registrars”):

Disputed domain name(s)	Registrar
<totalenergiessuppliers.com> <totalenergiessupplies.com> <totalenergiesuppliers.com> <totalenergiesupply.com>	Nicenic International Group Co.
<totalenergies-supply.com>	GoDaddy.com, LLC
<totalenergiessupply.com>	Network Solutions, LLC
<totalenergiesupplies.com>	eNom, LLC
<totalprocurementservice.com> <totalpurchaseprocess.com> <totalsupplies.live> <total-supplys.com> <totalsupplys.com>	NameCheap, Inc.
<totalsupplyservice.com>	Tucows Inc.

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 17, 2023. On February 17 and March 16, 2023, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names.

On February 17, 2023, the Registrar Tucows Inc. transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant of the disputed domain name <totalsupplieservice.com> and providing the contact details.

On February 17, 2023, the Registrar NameCheap, Inc. transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names <totalsupplies.live>, <total-supplys.com> and <totalsupplys.com> which differed from the named Respondents and contact information in the Complaint.

On February 18, 2023, the Registrar Nicenic International Group Co. transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names <totalenergiessuppliers.com>, <totalenergiessupplies.com>, <totalenergiesuppliers.com> and <totalenergiesupply.com> which differed from the named Respondents and contact information in the Complaint.

On February 20, 2023, the Registrar GoDaddy.com, LLC transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <totalenergies-supply.com> which differed from the named Respondent and contact information in the Complaint.

On February 20, 2023, the Registrar eNom, LLC transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <totalenergiesupplies.com> which differed from the named Respondent and contact information in the Complaint.

On March 8, 2023, the Network Solutions, LLC transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name <totalenergiessupply.com> which differed from the named Respondent and contact information in the Complaint.

On March 15, 2023, the Complainant filed an amendment to the Complaint related to the addition of the domain names <totalpurchaseprocess.com> and <totalprocurementservice.com>. On March 16, 2023, the Center transmitted by email to the Registrar NameCheap, Inc. a request for registrar verification in connection with these two disputed domain names. On the same day, the Registrar NameCheap, Inc. transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names <totalpurchaseprocess.com> and <totalprocurementservice.com>, which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on March 21, 2023 providing the registrant and contact information disclosed by the Registrar NameCheap, Inc., and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on March 24, 2023, with which it also withdrew from the proceeding the domain names <totalenergies-supplies.com> and <totalenergies-supplychain.com> that were included in the original Complaint.

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 April 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 3, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on May 4, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on May 15, 2023. 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 created under the name of “Compagnie Française des Pétroles” in 1924. In 1985, it adopted the brand TOTAL as part of its corporate name, and adopted its current name “TotalEnergies SE” in 2021. The Complainant is a global company that produces and markets energy products such as oil and biofuels, natural gas and green gases, renewables, and electricity. It operates worldwide in more than 130 countries through numerous subsidiaries. The Complainant’s business includes all aspects of the energy industry from production to marketing, the development of next generation energy activities (biomass, wind). It is also the second largest global Liquefied Natural Gas player in the world and a world-leading solar energy operator. The Complainant’s TOTAL brand is the 92nd most valuable brand globally, with a value estimated at over USD 20 billion.

The Complainant is the owner of the following trademark registrations for the sign TOTAL (the “TOTAL trademark”):

- the French trademark TOTAL with registration No. 1540708, registered on December 5, 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; and
- the International trademark TOTAL (figurative) with registration No. 591228, 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.

The Complainant is also the owner of the European Union Trade Mark TOTAL ENERGIES (the “TOTAL ENERGIES trademark”) with registration No. 018308753, 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.

The Complainant is the owner of numerous domain names including the TOTAL or TOTAL ENERGIES trademark, such as the domain names <total.com>, registered on December 31, 1996, and <totalenergies.com> registered on March 8, 2014, which both resolve to the Complainant’s official website.

The disputed domain names were registered on the dates and by the registrants listed in the table below, which also includes information about the use of the disputed domain names.

	<b>Disputed domain name</b>	<b>Date of registration</b>	<b>Respondent</b>	<b>Use of the disputed domain name</b>
1.	<totalenergiesupplies.com>	January 4, 2023	Peter doonson	The website cannot be reached. Used for distribution of emails impersonating the Complainant.
2.	<totalpurchaseprocess.com>	August 9, 2022	Richard Carter, KTF	The certificate of the website has been revoked and the access to the webpage is blocked. Used for distribution of emails impersonating the Complainant.

3.	<totalenergiesuppliers.com>	January 13, 2023	Margurite Hooper	The webpage cannot be found. Used for distribution of emails impersonating the Complainant.
4.	<totalenergiessupply.com>	February 27, 2023	Milen Radumilo	A parked webpage of the Registrar GoDaddy with sponsored links. Used for distribution of emails impersonating the Complainant.
5.	<totalenergiessupplies.com>	January 6, 2023	Vincent Mccray	The webpage cannot be found. Used for distribution of emails impersonating the Complainant.
6.	<totalprocurementservice.com>	January 23, 2023	John Donovan, Shell Global	The webpage cannot be found. Used for distribution of emails impersonating the Complainant.
7.	<totalenergies-supply.com>	January 9, 2023	andrew Kiev, Brockwell Tech	A parked webpage of the Registrar GoDaddy. Used for distribution of emails impersonating the Complainant.
8.	<totalenergiesupply.com>	January 7, 2023	Sherill Anderson	The webpage cannot be found.
9.	<totalenergiessuppliers.com>	January 19, 2023	Concha Hunt	The webpage cannot be found.
10.	<totalsupplies.live>	January 5, 2023	Omega valmo	The webpage cannot be found.
11.	<totalsupplyservice.com>	January 26, 2023	Domain Administrator, C/O InMotion Hosting, Inc	A blank webpage with an empty Index. Used for distribution of emails impersonating the Complainant.
12.	<total-supplys.com>	January 31, 2023	Richard Carter	A parked webpage of the Registrar NameCheap. Used for distribution of emails impersonating the Complainant.
13.	<totalsupplys.com>	February 23, 2022	greenland greenland	The website cannot be reached.

The case file contains no information about the Respondents other than what has been provided by the Registrars.

## 5. Parties' Contentions

### A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

The Complainant points out that all the disputed domain names were created after the announcement on May 28, 2021 of its new TOTAL ENERGIES brand, and the commencement of its huge publicity campaign. The Complainant states that the disputed domain names are confusingly similar to its well-known TOTAL and TOTAL ENERGIES trademarks, and to the trade names and domain names in which the Complainant has rights, because they all follow the same pattern including one or both of these trademarks plus a dictionary word or words such as "supply", "supplies", "suppliers", "purchase process", and "procurement service", which suit perfectly with the Complainant's activities.

According to the Complainant, the Respondents have no rights or legitimate interests in respect of the disputed domain names, because they were registered to use the identity of the Complainant and its employees while slavishly reproducing its TOTAL and TOTAL ENERGIES trademarks. The Complainant underlines that the disputed domain names do not resolve to active websites but are inaccessible and unused. The Complainant notes that the website at the disputed domain name <totalenergiessupply.com> is parked and contains sponsored links related to the energy sector - the same activity field as that of the Complainant. In the Complainant's submission, the TOTAL and TOTAL ENERGIES trademarks are well known and highly distinctive, so it is less likely these names were chosen randomly by the Respondents.

The Complainant states that it has not authorized the Respondents to register or use the disputed domain names or to use the TOTAL and TOTAL ENERGIES trademarks.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. According to it, the reproduction of the well-known TOTAL and TOTAL ENERGIES trademarks shows the intent of the Respondents to impersonate the Complainant and its services and employees by creating look-alike domain names. The Complainant also notes that the same email address is used by four Respondents and that the same registrant name is used for two of the disputed domain names. According to the Complainant, this shows that the Respondents seek to multiply their fraudulent means through different domain names in order to reach a higher number of victims.

The Complainant points out that the Respondents are using the disputed domain names and associated email addresses for fraudulent and malicious intents. The Complainant's partners and customers have reported receiving fraudulent emails, communications and requests from email addresses created with the disputed domain names <totalenergiesupplies.com>, <totalpurchaseprocess.com>, <totalenergiesuppliers.com>, <totalenergiessupply.com>, <totalenergiessupplies.com>, <totalprocurementservice.com>, <totalenergies-supply.com>, <totalsupplyservice.com> and <total-supplys.com>. The Complainant notes that the fraudulent correspondence reproduces addresses, contact details and registration numbers that are associated with the Complainant or with a company in which the Complainant is a shareholder, as well as a name corresponding to the name of an employee of the Complainant or a name that was associated with a domain name that was the subject of the proceeding in *TotalEnergies SE v. greenland greenland, Mark Holly, Sharon Mohale, David Hahn, Richard Carter, Ben Ben Adams*, WIPO Case No. [D2022-3959](#), where the Panel ruled in favor of the Complainant. The Complainant states that the fraudulent emails share similar text inviting all interested suppliers to submit quotations for delivery of goods to the Complainant or informing them that their quotations have been approved. According to the Complainant, such requests for quotations are a common scam widely documented online.

### B. Respondents

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

## 6. Discussion and Findings

### 6.1. Procedural issue – Consolidation of Respondents

The Complainant requests the consolidation of the Respondents in the present proceeding. According to it, the disputed domain names are under common control, which is shown by the following combination of factors:

- all of the disputed domain names share a common naming pattern, reproducing the Complainant's well-known TOTAL trademark with the addition of dictionary words, most of which are variations of the word "supply";
- eleven of the disputed domain names were registered in January 2023 and use privacy services;
- the same email address is used for four Respondents and Richard Carter is the registrant of two of them;
- all of the disputed domain names do not resolve to active webpages and are either inaccessible or parked;
- five of the disputed domain names share the same Registrar, and other four share another; and
- nine disputed domain names were used for sending similar fraudulent emails sharing a common structure impersonating the Complainant.

The Respondents have not objected to the consolidation request of the Complainant.

As discussed in section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), 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 circumstances referred to by the Complainant in its consolidation request are supported by evidence and allow a conclusion that the Respondents are likely under common control. The Panel is not aware of any reason why the consolidation would not be fair and equitable, and it is likely to lead to procedural efficiency.

Therefore, the Panel allows the consolidation of the Respondents in the present proceeding.

#### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the TOTAL and TOTAL ENERGIES trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1

The Panel finds the entirety of the TOTAL trademark is reproduced within all of the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the Complainant's TOTAL trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel also finds the entirety of the TOTAL ENERGIES trademark is reproduced within the disputed domain names <totalenergiessuppliers.com>, <totalenergiessupplies.com>, <totalenergies-supply.com>, <totalenergiessupply.com>, <totalenergiesuppliers.com>, <totalenergiesupplies.com> and <totalenergiesupply.com>. Accordingly, these disputed domain names are confusingly similar to the Complainant's TOTAL ENERGIES trademark for the purposes of the Policy.

While the addition of other terms (here, "supply", "supplies", "suppliers", "purchase process", and "procurement service"), may bear on assessment of the second and third elements, the Panel finds the addition of such terms to the disputed domain names does not prevent a finding of confusing similarity between them and the TOTAL trademark or the TOTAL ENERGIES trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondents may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names. The Respondents have not rebutted Complainant's *prima facie* showing and have not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names.

The Panel considers that the record of this case reflects that:

Before any notice to the Respondents of the dispute, the Respondents did not use, nor have they made demonstrable preparations to use, the disputed domain names or names corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.

The Respondents (as individuals, businesses, or other organizations) have not been commonly known by the disputed domain names. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.

The Respondents are not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

The record contains no other factors demonstrating rights or legitimate interests of the Respondents in the disputed domain names.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Here, it appears that the Respondents are under common control and have used nine of the disputed domain names for the setting up of email accounts which were then used for the distribution of fraudulent emails impersonating the Complainant. Such use of the disputed domain names can never confer rights or legitimate interests in the disputed domain names on the Respondents.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondents' registration and use of the disputed domain names constitutes bad faith under the Policy. The Respondents have used nine of the disputed domain names for the setting up of email accounts which were then used for the distribution of fraudulent emails impersonating the Complainant.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain names <totalenergiesupply.com>, <totalenergiessuppliers.com>, <totalsupplies.live> and <totalsupplys.com> does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3.

The Panel notes the distinctiveness or reputation of the Complainant's TOTAL and TOTAL ENERGIES trademarks, the failure of the Respondents to submit any Response or evidence of good faith use, the composition of the disputed domain names <totalenergiesupply.com>, <totalenergiessuppliers.com>, <totalsupplies.live> and <totalsupplys.com>, the likelihood that all Respondents are under common control, and the fact that they have already used the other nine disputed domain names for fraudulent activities. In view of this combination of factors, the Panel finds that the passive holding of these disputed domain names does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.



## 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, <totalenergiessuppliers.com>, <totalenergiessupplies.com> <totalenergies-supply.com>, <totalenergiessupply.com>, <totalenergiesuppliers.com>, <totalenergiesupplies.com>, <totalenergiesupply.com>, <totalprocurementservice.com>, <totalpurchaseprocess.com>, <totalsupplies.live> <total-supplys.com>, <totalsupplys.com> and <totalsupplyservice.com> be transferred to the Complainant.

*/Assen Alexiev*

**Assen Alexiev**

Sole Panelist

Date: May 29, 2023