

## **ADMINISTRATIVE PANEL DECISION**

### **QatarEnergy v. Richard Charles, Adgpa**

### **Case No. D2023-1028**

#### **1. The Parties**

The Complainant is QatarEnergy, Qatar, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Richard Charles, Adgpa, Nigeria.

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

The disputed domain names <eoi-qatenergies.com> and <qtarenergy.com> are both registered with NameCheap, Inc. (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 8, 2023. On March 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 9, 2023, 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 March 10, 2023.

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 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 3, 2023.

The Center appointed Torsten Bettinger as the sole panelist in this matter on April 13, 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 is a Qatari state-owned corporation founded in 1974, which operates all oil and gas activities in the State of Qatar. Having operated as “Qatar Petroleum” for over 20 years, the Complainant changed its name to “QatarEnergy” on October 11, 2021. The Complainant’s rebranding was widely reported by the press. As of 2018, the Complainant was the third largest oil corporation in the world by oil and gas reserves.

The Complainant owns trademark registrations for QATARENERGY in numerous jurisdictions, including European Union Trademark registration no. 018573702 QATAR ENERGY and device registered on April 19, 2022.

The Complainant is the owner of domain names <qatarenergy.qa> and <qatarenergy.com.qa>.

The disputed domain names were both registered on December 4, 2022, and do not resolve to active websites. However, the Respondent used the disputed domain name <eoi-qatenergies.com> in connection with a phishing scheme, which involved the sending of emails impersonating the Complainant.

#### **5. Parties’ Contentions**

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

The Complainant states that, the disputed domain names resolve to inactive webpages and that both domain names have been suspended further to the Complainant’s request to the Registrar.

Furthermore the Complainant contends that the disputed domain name <eoi-qatenergies.com> has been used by the Respondent in connection with a phishing scheme, which involved the sending of fraudulent emails impersonating the Complainant.

With respect to the requirement of identity or confusing similarity between the trademark and the disputed domain names pursuant to paragraph 4(a)(i) of the Policy, the Complainant asserts that the disputed domain names are confusingly similar to its registered trademark arguing that:

- the disputed domain name <qatarenergy.com> consists of an obvious misspelling of the Complainant’s QATAR ENERGY trademark, omitting the first occurrence of the letter “a”;
- the disputed domain name <eoi-qatenergies.com> incorporates a modified version of the Complainant’s QATAR ENERGY trademark with the addition of the descriptive term “eoi” (for “expression of interest”), under the generic Top-Level Domain (“gTLD”) “.com”;
- the textual element of its trademark, QATAR ENERGY, is readily recognizable in the disputed domain names;
- the contents of the email sent from the email address associated with the disputed domain name <eoi-qatenergies.com>, which contain references to QatarEnergy, makes it clear that the Respondent has sought to target the Complainant’s trademark;
- the applicable gTLD, in this case “.com”, may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement.

With respect to the Respondent having no rights or legitimate interests in the disputed domain name, the Complainant submits the Respondent is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy that would demonstrate its rights or legitimate interests in the disputed domain names, arguing that:

- the Respondent was using the domain name <eoi-qatenergies.com> in connection with advance fee fraud and that such use of the disputed domain name <eoi-qatenergies.com> can by no means be considered as a *bona fide* offering of goods or services under the Policy;
- the use of the disputed domain name <eoi-qatenergies.com> in connection with advance fee fraud strongly suggests that the disputed domain name <qtarenergy.com> has also been or could be used in the future for the same purpose;
- the fact that the disputed domain names do not currently resolve to an active webpage cannot support a claim that the disputed domain names have been used in connection with a *bona fide* offering of goods and services;
- the Respondent cannot conceivably claim that it is commonly known by the disputed domain names in accordance with paragraph 4(c)(ii) of the Policy as there is no evidence of the Respondent having acquired or applied for any trademark registrations for “QATARENERGY”, or any variation thereof;
- the Respondent’s use of the disputed domain names does not support any reasonable claim of being commonly known by the disputed domain names, nor does it give rise to any reputation in the domain names themselves;
- the use of the disputed domain name <eoi-qatenergies.com> by the Respondent in connection with an advance fee fraud in which it impersonated the Complainant, cannot constitute a legitimate noncommercial or fair use of the disputed domain name <eoi-qatenergies.com>;
- the fact that the Respondent does not appear to be making any active use of the disputed domain names does not give rise to any rights or legitimate interests in the domain names;
- as the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names the burden of production under this element shifts to the Respondent to come forward with evidence to support a claim of rights or legitimate interests in the disputed domain names; in the absence of such evidence, the Complainant may be deemed to have satisfied the requirements of paragraph 4(a)(ii) of the Policy.

Finally, with respect to the disputed domain names having been registered and being used in bad faith, the Complainant submits that:

- the Complainant, founded in 1974, has acquired considerable renown and goodwill worldwide in connection with oil and gas activities;
- the Complainant’s recent rebranding to QatarEnergy in October 2021 was widely reported by the international press;
- the Complainant’s trademarks in the term QATAR ENERGY predate the registration date of the disputed domain names on December 4, 2022;
- the fact that the disputed domain name <eoi-qatenergies.com> was used as a part of a fraudulent scheme impersonating the Complainant leaves no doubt as to the Respondent’s intent to target the Complainant at the time of registration of the disputed domain names;

- the Respondent's use of the disputed domain name <eoi-qatenergies.com> to impersonate the Complainant in order to commit advance fee fraud constitutes conclusive evidence of the Respondent's bad faith;
- given the use of disputed domain name <eoi-qatenergies.com> to commit advance fee fraud, the Complainant cannot exclude the possibility of the domain name <qtarenergy.com> being used for similar purposes, as hyperlinks or for email in connection with fraudulent schemes targeting the Complainant's users;
- the fact that the domain names do not resolve to active websites does not prevent a finding of bad faith;
- in the circumstances, there is no plausible good-faith use to which the domain names could be put that would not have the effect of misleading consumers as to the source or affiliation of the disputed domain names;
- the presence of the disputed domain names in the hands of the Respondent represents an abusive threat hanging over the head of the Complainant.

the Respondent's use of a privacy service to hide its identity may be considered further evidence of the Respondent's bad faith.

#### **B. Respondent**

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

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

Paragraph 4(a) of the Policy states that the Complainant must prove each of the three following elements:

- (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 Respondent has 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.

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

The Complainant has demonstrated that it owns multiple trademark registrations for the figurative trademark QATAR ENERGY prior to the registration of the disputed domain name on December 4, 2022.

It is well established that the test of identity or confusing similarity between the trademark and the disputed domain name under the Policy is confined to a comparison of the disputed domain name and the trademark alone, independent of the products for which the trademark is used or other marketing and use factors usually considered in trademark infringement cases (see sections 1.1.2 and 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)")).

In this case, the disputed domain name <qtarenergy.com> consists of an obvious misspelling of the Complainant's QATAR ENERGY trademark, omitting the first occurrence of the letter "a".

The disputed domain name <eoi-qatenergies.com> incorporates a modified version of the Complainant's QATAR ENERGY trademark with the addition of the term "eoi".

The textual element QATAR ENERGY of the figurative trademark is recognizable both of the disputed domain names.

As stated in [WIPO Overview 3.0](#), section 1.7: “[...] in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” The addition of the term “eoi” to the disputed domain name <eoi-qatenergies.com> does not prevent a finding of confusing similarity.

Furthermore, it is well accepted under the UDRP case law that the specific gTLD designation such as “.com”, “.net”, “.org” is not to be taken into account when assessing the issue of identity and confusing similarity, except in certain cases where the applicable Top-Level suffix may itself form part of the relevant trademark (see [WIPO Overview 3.0](#) section 1.11).

For the foregoing reasons the Panel concludes that the disputed domain names are confusingly similar to the Complainant’s QATAR ENERGY trademark.

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

Pursuant to paragraph 4(c) of the Policy a 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 you [the Respondent] of the dispute, your 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) you [the Respondent] (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you [the Respondent] are 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 Complainant stated and provided evidence that the Respondent was using the disputed domain name <eoi-qatenergies.com> in connection with a phishing scheme, which involved the sending of fraudulent emails impersonating the Complainant. The Complainant asserts that that the disputed domain name <qtarenergy.com> has also been or could be used in the future for the same purpose.

These assertions and evidence are sufficient to establish a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names.

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 disputed domain names. If the respondent fails to submit such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent chose not to contest the Complainant’s allegations and has failed to come forward with any evidence to refute the Complainant’s *prima facie* showing that the Respondent lacks rights or legitimate interests.

From the record in this case, the Respondent has also not used the disputed domain names in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. The use of a domain name for impersonation or other types of fraud can never give rise to any rights or legitimate interests on a respondent (see [WIPO Overview 3.0](#), section 2.13.1.).

On this basis the Panel concludes that the Respondent lacks rights and legitimate interests in the disputed domain names and that, accordingly, the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy provides four, non-exclusive, circumstances that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the Respondent has registered or has acquired the disputed domain name primarily for the purpose of selling, renting or otherwise transferring the disputed domain name registration 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 documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the Respondent has registered the disputed 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 the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 the Respondent's website or location or of a product or service on the Respondent's website or location.

#### **Bad faith registration**

The Complainant holds trademark registrations for the trademark QATAR ENERGY in various countries that predate the registration of the disputed domain names. The QATAR ENERGY mark is clearly associated with the Complainant and its products and services due to its long standing and widespread use.

Given that the disputed domain name <qtarenergy.com> consists of an obvious misspelling of the Complainant's QATAR ENERGY trademark, omitting the first occurrence of the letter "a"; and that the disputed domain name <eoi-qatenergies.com> incorporates a modified version of the Complainant's QATAR ENERGY trademark with the addition of the term "eoi" (for "expression of interest"), the Panel has no doubt that the Respondent registered the disputed domain names with actual knowledge of the Complainant's rights in the QATAR ENERGY mark.

The Panel thus finds that the Respondent registered the disputed domain names in bad faith.

#### **Bad faith use**

To prove bad faith use of the disputed domain names, the Complainant provided evidence that indicates that the Respondent was using the domain name <eoi-qatenergies.com> in connection with a phishing scheme, which involved the sending of fraudulent emails impersonating the Complainant.

The Panel agrees with the Complainant's assertion that that the disputed domain name <qtarenergy.com> could be used in the future for the same purpose. Indeed, the composition of the disputed domain name <qtarenergy.com> suggests that this disputed domain name will likely be used for the same fraudulent purposes.

Such fraudulent use constitutes bad faith under the Policy as it indicates that the Respondent intentionally registered and is using the disputed domain names in order to disrupt the Complainant's business, in accordance with paragraph 4(b)(iii) of the Policy.

The fact that there is no evidence that the disputed domain names have been used for active websites does not prevent a finding of bad faith.

The Panel agrees with the Complainant that in the circumstances, there is no plausible good-faith use to which the domain names could be put that would not have the effect of misleading consumers as to the source or affiliation of the disputed domain names and that therefore, the disputed domain names in the hands of the Respondent represent an abusive threat hanging over the head of the Complainant.

Therefore the Panel concludes that the Respondent's ownership of the disputed domain names amounts to a continuing abusive use and that accordingly the Complainant has also established the third limb 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 names, <eoi-qatenergies.com> and <qtarenergy.com>, be transferred to the Complainant.

*/Torsten Bettinger/*

**Torsten Bettinger**

Sole Panelist

Date: April 27, 2023