

ADMINISTRATIVE PANEL DECISION

CenterPoint Energy, Inc. v. Hulmiho Ukolen, Poste restante
Case No. D2024-1895

1. The Parties

The Complainant is CenterPoint Energy, Inc., United States of America (“United States”), represented by Fibbe Lightner, LLP, United States.

The Respondent is Hulmiho Ukolen, Poste restante, Finland.

2. The Domain Name and Registrar

The disputed domain name <txcenterpointenergy.com> is registered with Gransy, s.r.o. d/b/a subreg.cz (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 4, 2024. On May 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 7, 2024, 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 (*Not Disclosed, NEROSO Inst., s.r.o.*) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 10, 2024, 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 amendment to the Complaint on May 15, 2024.

The Center verified that the Complaint together with the amendment to the 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 May 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 10, 2024.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on June 14, 2024. 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 company incorporated in the United States and has its headquarters in Texas. The Complainant is active in the field of energy delivery, including electric transmission and distribution, natural gas distribution, and energy services operations.

Amongst other, the Complainant owns registrations for several active trademarks, including:

- United States word trademarks CENTERPOINT ENERGY registered under No. 2863036, No. 2863037, No. 2823759, and No. 5291106 respectively on July 13, 2004, March 16, 2004, and September 19, 2017, in classes 42, 36, 39, 41, 37, 35, 45, and 42.
- United States semi-figurative trademarks CenterPoint Energy registered under No. 2857141, No. 2867046, No.2753890, and No.5291107 respectively on June 29, 2004, July 27, 2004, August 19, 2003, and September 19, 2017, in classes 36, 42, 39, 41, 37, 35, 45, and 42.

The Complainant also operates the domain name <centerpointenergy.com>, registered on December 12, 2000.

The disputed domain name was registered on April 20, 2024, by the Respondent and resolves to an inactive page.

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 name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademarks for CENTERPOINT ENERGY as the disputed domain name is comprised of its well-known CENTERPOINT ENERGY trademark, preceded by the letters "TX", which is the abbreviation and geographical indicator for the State of Texas – the location of the Complainant's headquarters and the State in which the Complainant is incorporated. The Complainant argues that the addition of the characters "tx" as a geographically descriptive element to a trademark does not sufficiently distinguish a domain name from the trademark it wholly incorporates.

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as the Respondent is not and never has been known by the disputed domain name and has not been licensed or permitted by the Complainant to use its United States trademarks. In addition, the Complainant contends that there can be no legitimate interests as the Respondent is using the disputed domain name to mislead consumers to presume that the disputed domain name is associated with Complainant.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith as they can be used to defraud individuals by sending emails to customers of the Complainant. Furthermore, the Complainant argues that the legal presumption of bad faith should apply given the Respondent registered the disputed domain name in 2024, more than 20 years after the Complainant first

used its CENTERPOINT ENERGY mark and by which time the Complainant's mark was well established with millions of consumers in the United States.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- i. the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- ii. the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

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.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the Complainant has established trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "TX", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. In this case, the authentic domain name of the Complainant is a platform on which customers can i.a. review their bills and make payments. The Complainant has demonstrated that email subdomains (for example, subdomains with a hostname including the term "mail" or "mailer") have been set up in relation to the disputed domain name, and argued credibly that the disputed domain name could be used to pass off emails from the Respondent as authentic emails from the Complainant with the aim of fraudulently obtaining payments from customers of the Complainant. This conclusion is also supported on previous panel's decisions against the Respondent where panels found that the Respondent acted in bad faith, see for example *Intuit Inc. v. Domain Admin, Whois protection, this company does not own this domain name s.r.o. / Hulmiho Ukolen*, WIPO Case No. [D2019-1689](#) ("Respondent has diverted Internet users looking for the Complainant to a site hosting surveys requesting the personal information of Internet users. Phishing is also registration and use in bad faith").

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.

The Panel deems it a relevant circumstance that the Respondent has engaged in a pattern of cybersquatting and is frequently ruled against by default by other UDRP panels (see *La Plateforme v. Hulmiho Ukolen, Poste restante*, WIPO Case No. [D2023-3404](#); *Equifax Inc. v. Hulmiho Ukolen, Poste restante*, WIPO Case No. [D2022-4429](#); *Aldi GmbH & Co. KG and Aldi Stores Limited v. Hulmiho Ukolen, Poste restante*, WIPO Case No. [D2022-4285](#); *Aldi GmbH & Co. KG, Aldi Stores Limited v. Whois protection, this company does not own this domain name s.r.o / Hulmiho Ukolen, Poste restante*, WIPO Case No. [D2022-3480](#); *Camelot UK Bidco Limited, Clarivate Plc, MarkMonitor Inc. v. Hulmiho Ukolen, Poste restante*, WIPO Case No. [D2022-3449](#)).

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding, this is especially so where the composition of the disputed domain name makes it clear that the particular mark is being targeted. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the longstanding use of the Complainant's trademark, the composition of the disputed domain name, the failure of the Respondent to submit a response and the pattern of cybersquatting in which the Respondent has

engaged to find that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Panels have held that the use of a domain name for illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. In the present case, the Panel notes that the Respondent has set up email subdomains in relation to the disputed domain name, which in view of the composition of the disputed domain name can be used to pass off emails from the Respondent as authentic emails in the aim of defrauding Complainant's customers.

The Panel finds that the Complainant has established the third element 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 <txcenterpointenergy.com> be transferred to the Complainant.

/Benoit Van Asbroeck/

Benoit Van Asbroeck

Sole Panelist

Date: June 28, 2024