

ADMINISTRATIVE PANEL DECISION

ENGIE v. Toolz Hush, hushbar
Case No. D2024-2001

1. The Parties

The Complainant is ENGIE, France, represented by Ebrand France, France.

The Respondent is Toolz Hush, hushbar, United States of America.

2. The Domain Name and Registrar

The disputed domain name <engiei.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 14, 2024. On May 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 15, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 13, 2024.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on June 25, 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, ENGIE, is a French international company dealing in the production and distribution of electricity, natural gas, nuclear power, renewable energies and petroleum.

The Complainant was founded in 2015 as result of the merger between Gaz de France, founded in 1946 with Suez, founded in 1858.

The Complainant claims that the ENGIE Group had 96,454 employees at the end of December 2022 with a turnover of 23.9 billion Euros in 2022 and that the ENGIE Group is established in 31 countries and looks after 190,000 BtoB customers and 22.5 million Euros in B2C energy supply and service contracts.

The Complainant owns numerous registrations for the trademark ENGIE in several jurisdictions, including the following.

International Trademark Registration No. 1282374 ENGIE (in stylized characters), registered on July 28, 2015, in classes 1, 4, 9, 11, 35, 36, 37, 38, 39, 40, 41, 42 and 45;

European Trademark Registration No. 014337133 ENGIE, registered on February 20, 2016, in classes 1, 4, 7, 9, 11, 35, 36, 37, 38, 39, 40, 41, 42 and 45.

Also, the Complainant owns many domain names which include the trademark ENGIE, such as <engie.com>, registered on September 30, 2003, which relocates to the Complainant's official website.

The disputed domain name <engiei.com> was registered on February 1, 2024 and, while it does not resolve to any content, the Complainant has proved that it has been used as part of a phishing scheme to create the impression that an email is sent by an employee of the Complainant to place false orders with customers.

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 Respondent registered the disputed domain name and uses it for the sole purpose of extorting payments from business partners of the Complainant.

The Complainant has requested the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

B. Respondent

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

6. Discussion and Findings

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 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 that the addition of the letter “i” at the end of the Complainant’s mark in the disputed domain name 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, claimed as applicable to this case: phishing, 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.

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.

The Panel is satisfied that the Respondent must have been aware of the Complainant’s trademark ENGIE mentioned in section 4 above (Factual Background) when it registered the disputed domain name on February 1, 2024.

In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant’s ENGIE trademark in the disputed domain name creates a presumption of bad faith registration.

The Respondent, when registering the disputed domain name, has targeted the Complainant's business and its trademark ENGIE with the intention to confuse Internet users and capitalize on the fame of the Complainant's trademark for its own monetary benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)).

In the present case, the Panel notes that the disputed domain name was used as part of a phishing scheme for impersonating the company ENGIE GLOBAL MARKETS, more specifically an employee of the Complainant by sending an email from "[...].@engiei.com" to a business partner of the Complainant with the following text: "Please ensure that all incoming and future payments are made using these new bank details. Please note that any transfer made after this date to our old bank account may be rejected."

Panels have held that the use of a domain name such as in this case for a phishing scheme, 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 Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy and that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

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 <engiei.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: July 9, 2024