

ADMINISTRATIVE PANEL DECISION

TotalEnergies SE v. Johannes Stephanus
Case No. D2024-2456

1. The Parties

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

The Respondent is Johannes Stephanus, South Africa.

2. The Domain Name and Registrar

The disputed domain name <totalenergies-purchase.com> is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 17, 2024. On June 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 17, 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 ("N/A") and contact information in the Complaint. The Center sent an email communication to the Complainant on June 18, 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 amended Complaint on June 19, 2024.

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 June 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 11, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on July 18, 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 French company operating in the energy sector. The Complainant was originally founded under the name “Compagnie Française des Pétroles” in 1924 which changed to “TOTAL – Compagnie française des pétroles” in 1985, “TOTAL” in 1991, and “TotalEnergies SE” in 2021.

The Complainant is 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.

The Complainant owns several trademark registrations for TOTAL ENERGIES, particularly:

- European Union Trademark Registration No. 018308753, for TOTAL ENERGIES, registered on May 28, 2021, for goods and services 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;
- International trademark No. 1601110, for TOTALENERGIES (fig.), registered on February 9, 2021, for goods and services in classes 1, 4, 7, 9, 37, 39 and 40;
- International trademark No. 1601092, for TOTALENERGIES (fig.), registered on May 18, 2021, for goods and services 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 Complainant owns several domain names incorporating its TOTAL ENERGIES trademark, including <totalenergies.com> registered on September 17, 2020 and <totalenergies.group> since February 1, 2021.

The disputed domain name <totalenergies-purchase.com> was registered on August 21, 2023, and leads to a default webpage. The disputed domain name was previously used to create email address that were used in fraudulent schemes.

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:

(1) The disputed domain name is confusingly similar to the Complainant's trademark. The addition of the term “purchase” does not prevent a finding of confusing similarity with the Complainant's trademark, which remains clearly recognizable as the leading element in the disputed domain name. The generic Top-Level Domains (“gTLD”) “.com” may be disregarded for purposes of assessing confusing similarity, as it is viewed as a standard registration requirement.

(2) The Respondent has no rights to the disputed domain name nor legitimate interests in respect of it. The disputed domain name is inactive and therefore not used in connection with a bona fide offering of products or services. The Respondent tries to impersonate the Complainant through its email communications and notably its Canadian subsidiary. The Respondent is also in consequence not commonly known by the disputed domain name.

(3) The Respondent has registered and is using the disputed domain name in bad faith. The Respondent has registered the disputed domain name by reproducing well-known trademarks of the Complainant. The Respondent is using the disputed domain name for fraudulent and malicious intents, particularly for fraudulent emails including the disputed domain name <totalenergies-purchase.com> for requests of quotation and by impersonating one employee of the Complainant.

The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

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

6. Discussion and Findings

To succeed, in a UDRP complaint, complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel's decision shall be based upon the Complaint. The Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions.

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See, section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

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 3.0](#), section 1.7.

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

The entirety of the trademark is reproduced within the disputed domain name, followed by a hyphen and the term "purchase". 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, "purchase", 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.

See also *TotalEnergies SE v. Domain Administrator, Registrant of purchase-totalenergies.com / Albert Clement, Purchase Total Energies; Privacy service provided by Withheld for Privacy ehf / Harry Moore, Total; Junior Stephane, Total Energies Procurements; David Hahn, Global Data; Domain Admin, Privacy Protect, LLC (PrivacyProtect.org) / Sylvester Galphin; Zandie Dlamini; Proxy Protection LLC / Sharon Mohale; Junior McDonald; MARIN ABELANET*, WIPO Case No. [D2022-3069](#).

The addition of the gTLD “.com” shall be disregarded for the purposes of assessing confusing similarity, as it is a standard requirement of registration. See [WIPO Overview 3.0](#), section 1.11.1.

The Panel therefore finds that 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.

The Panel finds that the Respondent is neither a licensee of the Complainant nor affiliated with the Complainant in any way. The Complainant has not granted any authorization for the Respondent to use its TOTAL ENERGIES trademark in a domain name or otherwise.

There is no evidence that the Respondent has ever used or made demonstrable preparations to use the disputed domain name in connection with a bona fide offering of goods or services. On the contrary, as demonstrated by the Complainant, the disputed domain name leads to a default webpage and was used to create an email address to send an email purportedly from the Complainant in the context of a fraud scheme. The use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent. See [WIPO Overview 3.0](#), section 2.13.1. Moreover, the composition of the disputed domain name carries a risk of implied affiliation with the Complainant, which the Respondent exploited in the fraudulent email schemes. This cannot constitute fair use. The Panel finds that these circumstances do not confer upon the Respondent any rights or legitimate interests in respect of the disputed domain name.

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.

Noting the above, 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.

Given that the TOTAL ENERGIES trademark had been extensively used and registered by the Complainant prior to the registration of the disputed domain name, and noting the composition of the disputed domain

name, the Panel concludes that it is highly probable that the Respondent was aware of the Complainant's mark, and targeted the Complainant when registering the disputed domain name.

Furthermore, the Respondent used the disputed domain name to impersonate the Complainant in an email fraud scheme, clearly indicating that the Respondent was aware of the Complainant and intentionally chose the disputed domain name with this knowledge.

The Respondent's use of the Complainant's trademark and logos in a fraudulent email scheme also clearly indicates awareness of the Complainant and a deliberate attempt to target its business. Therefore, in terms of bad faith use, the Complainant has shown that the disputed domain name leads to an inactive website, and it was previously used to send fraudulent emails posing as the Complainant. [WIPO Overview 3.0](#), section 3.4.

Considering the Respondent's lack of response in this proceeding, the use of various privacy services to conceal the Respondent's identity, and the implausibility of any legitimate use for the disputed domain name, particularly given their involvement in a prior fraudulent email scheme, the totality of the circumstances suggests bad faith.

Based on these circumstances and the evidence presented, 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 <totalenergies-purchase.com> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: July 23, 2024