

## **ADMINISTRATIVE PANEL DECISION**

TotalEnergies SE v. Philip Alpha, Adam Fredrick  
Case No. D2024-2989

### **1. The Parties**

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

The Respondent is Philip Alpha, South Africa and Adam Fredrick, South Africa.

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

The disputed domain names <totalenergiesprojects.com> and <totalenergiesupplychain.com> are registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 23, 2024. On July 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 24, 2024, 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 (Anonymized, Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint.

The Center sent an email communication to the Complainant on July 26, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on July 29, 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 July 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 22, 2024.

The Center appointed Andrea Mondini as the sole panelist in this matter on September 10, 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 was founded in 1924 and since May 2021 is named "TotalEnergies SE". The Complainant produces and markets oil, gas, electricity and other energy products on a global scale, operating in more than 130 countries.

The Complainant holds numerous domain names, including the domain name <totalenergies.com> which hosts its main website.

The Complainant owns numerous trademark registrations in several jurisdictions, including:

TRADEMARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE	INTERNATIONAL CLASS
TOTAL	France	1540708	December 5, 1988	1-11, 13-21, 28-34
TOTAL ENERGIES	European Union	018308753	May 28, 2021	1-9, 11, 12, 14, 16-21, 25, 28, 35-43, 45

Because the Respondent did not file a Response, not much is known about the Respondent.

The disputed domain name <totalenergiesprojects.com> was registered on June 3, 2024, whereas <totalenergiessupplychain.com> was registered on July 9, 2024.

According to the evidence submitted with the Complaint, the Complainant alleges that the disputed domain names are used to impersonate the Complainant by sending fraudulent emails.

#### 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.

Notably, the Complainant contends as follows:

The disputed domain names are confusingly similar to the TOTALENERGIES trademark in which the Complainant has rights, because they incorporate this trademark in its entirety, and the addition of the terms "projects" and "supplychain", respectively, is not sufficient to avoid confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. The trademark TOTALENERGIES is well known because it has been extensively used to identify the Complainant and its products and services. The Respondent has not been authorized by the Complainant to use this trademark and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain names in connection with a bona fide offering of goods and services.

The disputed domain names were registered in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well-known trademark TOTALENERGIES at the time it registered the disputed domain names.

Respondent is using the disputed domain names in bad faith for fraudulent and malicious purposes: the Complainant's partners and customers reported the receipt of fraudulent emails, communications and requests for quotation impersonating the Complainant and originating from email addresses created through the disputed domain names.

## **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.

### **6.1. Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the disputed domain names are under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The registrants of the disputed domain names did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.2.

As regards common control, the Panel notes that both disputed domain names have a common structure, were created within a short period of time (June 3, 2024, and July 9, 2024) through the same registrar by individuals located in the same country, and the disputed domain names have been used to impersonate the Complainant by sending fraudulent emails. These circumstances indicate that the disputed domain names are subject to common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to herein as “the Respondent”) in a single proceeding.

## **6.2. Substantive issues**

### **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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the disputed domain names.

Although the addition of other terms such as here “projects” and “supplychain” may bear on assessment of the second and third elements, the Panel finds that in the present case the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The addition of the generic Top-Level Domain (“gTLD”) “.com” in the disputed domain names is a standard registration requirement and as such may be disregarded under the confusing similarity test under the Policy, paragraph 4(a)(i). See [WIPO Overview 3.0](#), section 1.11.1.

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 for a complainant to prove that 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 names.

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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity such as here impersonating the Complainant to send fraudulent emails can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the view of the Panel, noting that that the Complainant's trademark predates the registration of the disputed domain names and considering that the Complainant's trademark is well known, it is inconceivable that the Respondent could have registered the disputed domain names without knowledge of the Complainant's trademark. In the circumstances of this case, this is evidence of registration in bad faith.

Panels have held that the use of a domain name for illegal activity such as in the present case impersonating the Complainant to send emails containing fraudulent requests for quotation 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 names constitutes bad faith under the Policy.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy with regard to the disputed domain names.

### **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 <totalenergiesprojects.com> and <totalenergiesupplychain.com> be transferred to the Complainant.

*/Andrea Mondini/*

**Andrea Mondini**

Sole Panelist

Date: September 18, 2024