

ADMINISTRATIVE PANEL DECISION

Totalenergies SE v. Name Redacted
Case No. D2022-0160

1. The Parties

Complainant is Totalenergies SE, France represented by In Concreto, France.

Respondent is Name Redacted.

2. The Domain Name and Registrar

The disputed domain name <totalenergies.club> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2022. On January 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on January 27, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on February 1, 2022.

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 Respondent of the Complaint, and the proceedings commenced on February 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2022. On February 8 and 12, 2022, the Center received email communications from a third party. Based on those communications, it appears that the registration of the disputed domain name has likely been made using the name of a person, without their knowledge or authorization. For this reason, that name has been redacted from this decision, and is included in Annex 1 to the Registrar. Respondent did not reply to the allegations in the Complaint.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on March 10, 2022. 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

Complainant is a global energy company based in France. For decades, Complainant has operated its energy operations under the mark TOTAL. Complainant has further operated under the mark TOTALENERGIES, which Complainant officially adopted on May 28, 2021. Complainant owns several trademark registrations for its marks. These include, among others, International Registration No. 591,228 (registered August 3, 1992) for TOTAL and International Registration No. 1601110 (registered February 9, 2021) for TOTALENERGIES.

The disputed domain name was registered on July 17, 2021. Respondent has used the URL associated with the disputed domain name to resolve to a website that appears to mimic an official website of Complainant, including by referring to the “Total Energies” mark and services. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

5. Parties’ Contentions

A. Complainant

Complainant contends that the (i) disputed domain name is identical or confusingly similar to Complainant’s trademarks; (ii) Respondent has no rights or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

In particular, Complainant contends that it owns the TOTALENERGIES mark, which Respondent has incorporated in full into the disputed domain name.

Complainant further contends that Respondent has used the disputed domain name to set up a website meant to lure in customers looking for Complainant and its TOTALENERGIES products and services, likely in a phishing scheme. Complainant further contends that Respondent has no rights or legitimate interest in the domain name registration or use of the disputed domain name.

Rather, Complainant contends that Respondent has acted in bad faith in setting up a website, including by using false contact information, when Respondent clearly knew of Complainant’s rights. In this regard, Complainant contends that it enjoys a strong reputation with regard to its various global energy services, with rankings in Fortune Global 500 and Forbes. Complainant further contends that in addition to its offerings under the TOTALENERGIES mark, Complainant offers services via the “Total Energies Club”, which Complainant uses to designate a consumer loyalty program.

B. Respondent

Respondent did not reply to Complainant’s contentions.¹

¹ As noted, the Panel finds that the registration of the disputed domain name has likely been made using the name of a person, without that individual’s knowledge or authorization. As such, the person who is named as Respondent (name redacted) appears to have not been involved in this proceeding.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is.

The disputed domain name incorporates in full Complainants' TOTALENERGIES mark. The disputed domain name includes the top-level domain ".club". Typically, a top-level domain name may be disregarded for purposes of considering this first element. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0"), Paragraph 1.11.

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Policy provides some guidance to respondents on how to demonstrate rights or legitimate interests in the domain name at issue in a UDRP dispute. For example, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services"; (ii) demonstration that Respondent has been "commonly known by the domain name"; or (iii) "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".

No evidence has been presented to the Panel that might support a claim of Respondent's rights to or legitimate interests in the disputed domain name, and Respondent has no license from, or other affiliation with, Complainant.

Therefore, the Panel finds that Complainant has provided sufficient evidence of Respondent's lack of "rights or legitimate interests" in accordance with paragraph 4(a)(ii) of the Policy which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where "by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or of a product or service on [the] web site or location". As noted in Section 4 of this Panel's decision, Respondent has used the URL associated with the disputed domain name to resolve to a website that appears to mimic an official website of Complainant, including by referring to the "Total Energies" mark and services.

Respondent is thus trading on the goodwill of Complainant's trademarks to attract Internet users, presumably for Respondent's own commercial gain. The Panel finds sufficient evidence that Respondent registered and used the disputed domain name with knowledge of Complainant's prior rights, and in particular with regard to Complainant's global energy services offered under the TOTALENERGIES mark.

Therefore, the Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

7. Decision

For all 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.club> be transferred to Complainant.

Lorelei Ritchie

Sole Panelist

Dated: March 24, 2022