

## **ADMINISTRATIVE PANEL DECISION**

Vitol Holding B.V. v. Privacy service provided by Withheld for Privacy ehf /  
Todd Peter  
Case No. D2022-0322

### **1. The Parties**

The Complainant is Vitol Holding B.V., Netherlands, represented by NLO Shieldmark, Netherlands.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / Todd Peter, Canada.

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

The disputed domain name <vitol-energy.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 30, 2022. On January 31, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31, 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 the Complainant on February 3, 2022, 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 March 7, 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 the Respondent of the Complaint, and the proceedings commenced on March 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 29, 2022.

The Center appointed Alistair Payne as the sole panelist in this matter on April 1, 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**

The Complainant, based in the Netherlands, is one of the largest independent energy traders in the oil market and has operated for approximately 50 years. It owns the trade mark VITOL which is registered in various jurisdictions internationally, including as a United States trade mark under registration number 4442614, registered on December 3, 2013.

The disputed domain name was registered on June 1, 2021. The disputed domain name does not resolve to an active website. The Complainant contends that the Respondent has used the disputed domain name in connection to a fraudulent email scheme to solicit personal information from them relating to job offers.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant submits that it owns registered trade mark rights in the VITOL mark as set out above. It says that the disputed domain name wholly contains its VITOL mark and that the addition of the descriptive word "energy" in the disputed domain name does not prevent a finding of confusing similarity.

The Complainant further submits that the Respondent does not own any prior trade name or trade mark rights in the VITOL name or mark, and has no rights or legitimate interests in the disputed domain name.

The Complainant says that the Respondent has used the disputed domain name to approach third parties with fake job offers and that it then asks them for private information and even pretends to forward official Dutch government forms. According to the Complainant, it wrote to the Registrar and to the Respondent requesting that the disputed domain name be taken down, but it received no response from either party, and the Respondent is continuing with this fraudulent activity. This says the Complainant is evidence of registration and use of the disputed domain name in bad faith.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **A. Identical or Confusingly Similar**

The Complainant has demonstrated that it owns United States trade mark VITOL under registration number 4442614, registered on December 3, 2013. The disputed domain name wholly contains the Complainant's VITOL mark and is therefore confusingly similar to it. The addition of the word "energy" in the disputed domain name does not prevent a finding of confusing similarity. Accordingly, the Panel finds that the Complaint succeeds under this element of the Policy.

##### **B. Rights or Legitimate Interests**

The Complainant has submitted that the Respondent does not own any prior trade name or trade mark rights in the VITOL name or mark. Also, the Panel notes there is no evidence that the Respondent is commonly known by the disputed domain name.

The disputed domain name does not resolve to a website and there is no evidence that the disputed domain name is being used for legitimate noncommercial purposes or that a fair use is being made of it. The Panel notes however that the disputed domain name wholly incorporates the Complainant's VITOL mark together with a descriptive term related to the Complainant's area of business. This use of the Complainant's distinctive VITOL mark together with the word "energy" carries a risk of implied affiliation with the Complainant and its business. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 2.5.1. Further, the Panel notes that the disputed domain name is registered in the name of a privacy service.

The Respondent has had every opportunity to explain why it registered the disputed domain name containing the Complainant's mark and the word "energy", whether by way of response to the Complainant's cease and desist letter, or in the course of this proceeding, but has failed to do so.

The Panel therefore finds that the Complainant has made out a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. As the Respondent has failed to rebut this case, and also for the reasons set out under Part C below, the Panel finds that the Complaint also succeeds under this element of the Policy.

### **C. Registered and Used in Bad Faith**

The disputed domain name was registered on June 1, 2021, long after the registration of the Complainant's trade mark and after the Complainant commenced its energy trading business approximately fifty years ago. The Complainant says that it operates one of the largest energy trading businesses globally and its business is international in scope and that as a consequence it has developed considerable reputation and goodwill in connection with its VITOL mark. The Panel notes in addition that the VITOL mark is highly distinctive and that it is extremely unlikely that the Respondent registered the disputed domain name that incorporates both the VITOL trade mark and the word "energy" unless it was aware of the Complainant's mark and energy trading business at that time.

As discussed under Part B above, the Respondent is not using the disputed domain name to resolve to a website. The Complainant contends that the Respondent appears to be acting fraudulently as if it is the Complainant in order to elicit personal information from unsuspecting potential employees for its own purposes, but the Panel notes the Complainant has provided no specific evidence of such use in connection to the disputed domain name. Regardless of the alleged fraud use, the Complainant has confirmed that the Respondent has no connection with it, nor any right to use the distinctive VITOL mark or name and therefore the latter's registration and use of the confusingly similar disputed domain name is most likely in bad faith.

Previous UDRP panels have found that the passive use of a disputed domain name may amount to evidence of bad faith based on a consideration of factors such as (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. See [WIPO Overview 3.0](#), section 3.3.

As discussed above the Complainant's VITOL mark is highly distinctive and based on its substantial use in the energy trading marketplace over many years, it most likely enjoys a considerable reputation and goodwill. The Respondent has failed to respond to the Complainant's agents' cease and desist letter or to file a response in this proceeding and the Respondent has used a privacy service in an effort to conceal its identity. Finally, in all the circumstances, it seems highly unlikely that the Respondent has a *bona fide* or legitimate reason for registering and potentially using the disputed domain name, containing as it does the Complainant's distinctive VITOL mark together with the word "energy" which is directly suggestive of the Complainant's area of activity in the energy trading sector. Accordingly, the Panel finds that the disputed domain name is being passively held in bad faith.

As a result, the Panel finds that the disputed domain name has both been registered and used in bad faith and that the Complaint also succeeds under this 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 <vitol-energy.com> be transferred to the Complainant.

*/Alistair Payne/*

**Alistair Payne**

Sole Panelist

Date: April 15, 2022