

ADMINISTRATIVE PANEL DECISION

Subsea 7 Limited v. Henry Migul

Case No. D2023-0566

1. The Parties

The Complainant is Subsea 7 Limited, United Kingdom (“UK”), represented by Keltie LLP, UK.

The Respondent is Henry Migul, United States of America.

2. The Domain Name and Registrar

The disputed domain name <subsea7energy.com> (the “Domain Name”) is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 7, 2023. On February 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 14, 2023, 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 February 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 9, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on March 14, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is an engineering, construction and services company in the offshore energy industry.

The Complainant owns trademark registrations in SUBSEA 7, such as UK Trademark Registration number UK00002304950 registered on April 21, 2006, and International trademark registration number 1147789 registered on December 14, 2012.

The Respondent registered the Domain Name on November 23, 2023. At the time of the Complaint, the Domain Name resolved to a blank webpage with the warning text that it is "Not secure". At the time of drafting the Decision, the Domain Name resolved to a webpage that informs that the webpage is suspended.

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 Domain Name. The Complainant provides evidence of trademark registrations and argues that the Domain Name incorporates the Complainant's trademark in its entirety. The additional "energy" does not distinguish the Domain Name from the Complainant's trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent reproduces the Complainant's trademark in the Domain Name without any license or authorization from the Complainant. To the best of the Complainant's knowledge the Respondent is not commonly known as "Subsea7" or "Subsea7energy".

The Complainant believes that it is highly likely that the Respondent was aware of the Complainant's rights prior to registering the Domain Name and it is inevitable that visitors to the Domain Name would mistakenly believe that the Respondent is the Complainant's company, or a subsidiary entity associated with the Complainant. The Domain Name directs to a non-active webpage. Passive holding of a Domain Name which cannot be used legitimately by anyone other than the trademark holder is registration and use in bad faith insofar as the Domain Name is being used as a blocking registration, preventing the Complainant from using the Domain Name for legitimate commercial purposes.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The first element functions primarily as a standing requirement. The 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 established that it has rights in the trademark SUBSEA 7. In this case, The Domain Name incorporates the Complainant's trademark in its entirety, with "energy" added. This does not prevent a finding of confusing similarity between the Domain Name and the trademark. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

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. While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services. Moreover, the composition of the Domain Name carries a risk of implied affiliation with the Complainant.

The Panel finds that the Complainant has made out an un rebutted *prima facie* case. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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 composition of the Domain Name makes it probable that the Respondent was aware the Complainant and its prior rights when the Respondent registered the Domain Name. The Domain Name resolves to a non-active webpage. The passive holding of the Domain Name does not prevent a finding of bad faith, as the Domain Name fully incorporates the Complainant’s well-known trademark together with the added term “energy”, which is related to the Complainant’s industry, and the Respondent has offered no response to the Complaint. Based on the case file, the Panel cannot conceive a good faith use of the Domain name by the Respondent.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) 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 Domain Name <subsea7energy.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: March 27, 2023