

ADMINISTRATIVE PANEL DECISION

TotalEnergies SE v. Abe, Aber
Case No. D2024-2449

1. The Parties

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

The Respondents are Abe, United States of America and Aber, United States of America.

2. The Domain Names and Registrar

The disputed domain names <totalenergies-vip.com>, <totalenergie.vip> and <total-vip.com> are registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 14, 2024. On June 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 18, 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 Respondents (Anonymized; Anonymized; Anonymized) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 20, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar, requesting the Complainant to either file separate complaint(s) 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 June 25, 2024. On July 15, 2024, the Center sent an email regarding the Consolidation – Multiple Respondents to the Parties.



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 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 7, 2024.


The Center appointed Peter Burgstaller as the sole panelist in this matter on August 12, 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 worldwide and well-known company that produces and markets energies on a global scale. It owns and has rights in several trademark registrations containing the terms TOTAL and/or ENERGIES around the world, inter alia:

- French Trademark Registration for TOTAL (word), No. 1540708, registered December 5, 1988;
 - International Trademark Registration for  TOTAL (figurative), No 1469417, registered November 14, 2018;
 - European Union Trade Mark for TotalEnergies (figurative), No. 18392850, registered June 25, 2021;
 - European Union Trade Mark for TotalEnergies (figurative), No. 18392838, registered June 26, 2021;
- and
- International Trademark Registration for  (figurative), No 1601092, registered May 18, 2021 (Annex 9 to the Complaint).

The Complainant further owns the domain name <totalenergies.com> which addresses its official website and which contains information about the Complainant's products and services; the Complainant moreover owns numerous domain names containing the terms TOTAL and /or ENERGIES under various Top-Level Domains since 1996 onwards.

The disputed domain names were registered on May 25, 2024 <totalenergie.vip>, May 16, 2024 <total-vip.com>, and May 27, 2024 <totalenergies-vip.com>. At the time of filing the Complaint, the disputed domain names resolved to websites which displayed the Complainant's trademark TOTALENERGIES and its Logo  together with offerings for investments via cryptocurrency.

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 that the TOTAL and TOTALENERGIES trademarks are distinctive and well-known around the world. It notes that the disputed domain names contain the TOTAL or TOTALENERGIES trademark in their entirety, simply adding the descriptive term "vip" along with the generic Top-Level Domains ".vip" or ".com".

The Complainant submits that it has not authorized the Respondents to use the Complainant's trademarks in any way and it is inconceivable that the Respondents would not have been aware of the Complainant's trademark when registering the disputed domain names, since the disputed domain names resolved to websites containing the Complainant's trademarks and logo.

Therefore, the Complainant notes that the disputed domain names are not used for a bona fide offering of goods or services - it is to the contrary: the Respondents' websites are scam, posing to be affiliated with the Complainant and aiming to mislead Internet users.

Regardless of the true identity of the Respondents, the Complainant has at no time authorized the registration of the disputed domain names containing its trademark and / or the use of its trademarks on the corresponding websites.

Hence, the Respondents may have registered or acquired the disputed domain names primarily for scamming purposes to illegally impersonate the Complainant for commercial gain by deceiving unwitting third parties into believing that the Respondents are in some way connected with the Complainant or are the Complainant, which is not the case.

Furthermore, the websites associated with the disputed domain names are proposing investments in cryptocurrencies which are not authorized or offered by the Complainant.

B. Respondents

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

6. Preliminary Procedural Issue: Consolidation of Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or 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 disputed domain name registrants 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.

In the present case, the following elements indicate that the disputed domain names are (at least) under common control:

- the disputed domain names were registered within a few days (between May 16 and 27, 2024) and the underlying registrant details for the disputed domain names mentioned with regard to the organization and contact person "Abe" and "Aber" in the same country, the same city, and the same postal code.
- the Registrar for all disputed domain names is the same;
- the disputed domain names have a very similar naming pattern: the Complainant's registered trademarks TOTAL and/or TOTALENERGIES plus the term "vip" as suffix or as Top-Level Domain;
- the disputed domain names resolved to almost identical websites, all of them displaying the Complainant's trademark and logo together with an offering of purported cryptocurrency investments; and
- the Respondents did not react in any way – the Respondents neither rejected the consolidation request nor filed any Response.

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 below as “the Respondent”) in a single proceeding.

7. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain names are 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 with respect to the disputed domain names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the marks TOTAL and TOTALENERGIES for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

In the present case, the disputed domain names are confusingly similar to the marks in which the Complainant have rights since they incorporate the entirety of the marks TOTAL or TOTALENERGIES as well as the suffix “vip”. Regarding the disputed domain name <totalenergie.vip> only the “s” at the end is omitted.

It has long been established under UDRP decisions that where the relevant trademark is recognizable within the disputed domain names, the mere addition of other terms or obvious misspellings of such trademarks does not prevent a finding of confusing similarity under the first element of the Policy ([WIPO Overview 3.0](#), sections 1.8 and 1.9). This is the case at present – the TOTAL and TOTALENERGIES trademarks clearly remain recognizable in each of the disputed domain names.

Finally, it has also long been held that generic Top-level Domains (“gTLDs”) (in this case “.com” or “.vip”) are generally disregarded when evaluating the confusing similarity of a disputed domain name. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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.

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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the 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, since it has never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the TOTAL or TOTALENERGIES trademarks in any manner.

Since the disputed domain names resolved to a website which displayed prominently the Complainant's trademark together with the Complainant's logo and an offer for investments via cryptocurrency (an activity in which the Complainant is not engaged), the Panel notes that the disputed domain names are not being used to provide bona fide goods or services via a website, but the Respondent has instead registered and used the disputed domain names for to impersonate the Complainant to gain commercial gain by deceiving unwitting third parties into believing that the Respondent is the Complainant or is connected to the Complainant. Such conduct is not indicative of rights or legitimate interests. [WIPO Overview 3.0](#), section 2.5.

The Respondent did not reply and hence has not rebutted the Complainant's contentions.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

As stated in paragraph 4(a)(iii) of the Policy, the Complainant must show registration and use of the disputed domain names in bad faith. These are concurrent requirements.

The Panel notes that 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 names in bad faith.

In regard to the registration of the disputed domain names, the Panel notes that the Complainant has rights and is the owner of the registered trademarks TOTAL and TOTALENERGIES, which are registered and used in business long before the disputed domain names were registered. Moreover, the Complainant's domain name <totalenergies.com> is used to address its official website, for many years and long before the registration of the disputed domain names.

It is inconceivable for this Panel that the Respondent registered the disputed domain names without knowledge of the Complainant's rights, which leads to the necessary inference of bad faith. [WIPO Overview 3.0](#), section 3.2.2.

This finding is supported by the use of the disputed domain names incorporating the Complainant's distinctive trademarks TOTAL and TOTALENERGIES, which indicates that the Respondent was aware of the Complainant, its business, and its trademarks at the time of registration of the disputed domain names.

Therefore, the Panel is convinced that the disputed domain names were registered in bad faith by the Respondent.

The disputed domain names were also being used in bad faith, since they resolved to a website which prominently displayed the Complainant's trademarks with offers for investments via cryptocurrency. Hence, the disputed domain names were used to impersonate the Complainant, likely for a commercial gain, by deceiving unwitting third parties into believing that the Respondent is in some way connected with the Complainant, which is not the case.

This clearly constitutes bad faith by willfully misleading and intentionally attempting to attract Internet users, for commercial gain, by creating a likelihood of confusion with the Complainant's trademarks.

Based on the available record, the Panel finds the third element of the Policy has been established.

8. 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 <totalenergies-vip.com>, <totalenergie.vip>, and <total-vip.com> be transferred to the Complainant.

/Peter Burgstaller/

Peter Burgstaller

Sole Panelist

Date: August 26, 2024