

ADMINISTRATIVE PANEL DECISION

Energizer Brands, LLC v. Name Redacted
Case No. D2024-4735

1. The Parties

The Complainant is Energizer Brands, LLC, United States of America (“United States”), represented by MarkMonitor, United States.

The Respondent is Name Redacted¹.

2. The Domain Name and Registrar

The disputed domain name <energizerholdngs.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 November 15, 2024. On November 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (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 November 20, 2024, 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 November 22, 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”).

¹ The Respondent appears to have used the name of a third party when registering the disputed domain name. In light of the potential identity theft, the Panel has redacted the Respondent's name from this Decision. However, the Panel has attached as Annex 1 to this Decision an instruction to the Registrar regarding transfer of the disputed domain name, which includes the name of the Respondent. The Panel has authorized the Center to transmit Annex 1 to the Registrar as part of the order in this proceeding, and has indicated Annex 1 to this Decision shall not be published due to the exceptional circumstances of this case. See *Banco Bradesco S.A. v. FAST-12785241 Attn. Bradescourgente.net / Name Redacted*, WIPO Case No. [D2009-1788](#).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 17, 2024.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on December 20, 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 United States company, and one of the world's largest manufacturers of primary batteries and portable lighting products. The Complainant is globally recognized by its ENERGIZER, EVEREADY, RAYOVAC and VARTA trademarks. The Complainant operates in more than 40 locations and distributes its products in more than 140 countries, with more than 5000 employees and 20 brands. The Complainant is one of the top market share leaders of the battery market and alkaline batteries in the United States.

The Complainant is the owner of several trademark registrations including:

Trademark	Registration No.	Jurisdiction	Date of Registration	Class
	584603	Algeria, Austria, Bosnia and Herzegovina, Benelux, Czech Republic, Democratic People's Republic of Korea, Germany, Hungary, Italy, Liechtenstein, Monaco, North Macedonia, Portugal, Romania, Russian Federation, San Marino, Serbia, Slovakia, Spain, Switzerland, and Viet Nam	March 16, 1992.	Class 9, Class 11.
	610623	Albania, Algeria, Austria, Benelux, Belarus, Bulgaria, Croatia, Czech Republic, Germany, Hungary, Italy, Kazakhstan, Liechtenstein, Monaco, Morocco, North Macedonia, Poland, Portugal, Romania, Russian	December 7, 1993.	Class 9, Class 11.

		Federation, Serbia, Slovakia, Slovenia, Spain, Switzerland, Ukraine, Uzbekistan, and Viet Nam		
ENERGIZER	692243	Kazakhstan and Monaco	May 4, 1998.	Class 9
ENERGIZER 	2028373	United States	January 7, 1997	Class 9
	000059030	European Union	August 6, 1999.	Class 9, Class 11

The Complainant owns the domain name <energizer.com> which resolves to the Complainant's main website. The Complainant's domain name <energizer.com> was registered on May 11, 1995. The Complainant also owns the domain names <energizer.net>, <energizer.org>, <energizerbattery.com>, <energizerholdings.com>, and <energizerholding.com>.

The disputed domain name was registered on September 14, 2024. The disputed domain name currently does not resolve to an active website. According to the evidence submitted with the Complaint, the Respondent used the disputed domain name to generate e-mail addresses with the extension "@energizerholdngs.com", impersonating the Complainant's parent company and two of its employees in a phishing scheme offering non-existent jobs.

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 name.

Notably, the Complainant contends the following:

I. Identical or Confusingly Similar

That the disputed domain name includes the Complainant's ENERGIZER trademark in its entirety along with the meaningless term "holdngs". That despite the fact that the term "holdngs" does not have a particular meaning, it is obvious that it is a typo of the generic term "holdings", omitting the letter "i". That the term "holdings" bears relevance to the Complainant's business activities, given that said term is part of the Complainant's parent company's business name (Energizer Holdings Inc).

That the Complainant's ENERGIZER trademark is clearly recognizable within the disputed domain name and that the addition of the term "holdngs" would not prevent a finding of confusing similarity (and cites the WIPO

Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 1.8).

That the generic Top-Level Domain ("gTLD") ".com" in the disputed domain name should be viewed as a standard registration requirement and, as such, should be disregarded in the finding of a confusing similarity with the Complainant's ENERGIZER trademarks (and cites [WIPO Overview 3.0](#), section 1.11). That if the TLD ".com" is disregarded, the remaining part of the disputed domain name is confusingly similar to the Complainant's ENERGIZER trademark and is, therefore, highly likely to be mistaken for it.

That the Complainant registered its first ENERGIZER trademark more than 30 years ago and has been actively using its trademarks since, which has led to the Complainant being clearly recognized as "ENERGIZER" by the public who has learned to associate the Complainant's goods and services with the Complainant's trademark ENERGIZER.

That the disputed domain name creates a likelihood of confusion with the Complainant's ENERGIZER trademark, which could mislead Internet users into thinking that the disputed domain name is in some way associated with the Complainant.

That previous UDRP panels have recognized the well-known character of the Complainant's ENERGIZER trademark (and cites *Eveready Battery Company, Inc. v. Deborah R. Heacock*, WIPO Case No. [D2013-0463](#); *Eveready Battery Company, Inc. v. Named Domains*, WIPO Case No. [D2009-1312](#); *Eveready Battery Company, Inc. v. Ho Nim*, WIPO Case No. [D2010-1799](#)).

II. Rights or Legitimate Interests

That the Respondent is not affiliated with the Complainant in any way and has not been authorized by the Complainant to use and register its ENERGIZER trademarks, or to seek registration of any domain name incorporating the Complainant's ENERGIZER trademarks.

That the Respondent did not demonstrate the use of the disputed domain name in connection with a bona fide offering of goods or services. That the Respondent has been using the disputed domain name to devise and execute a fraudulent hiring process by issuing non-existent job offers for work at the Complainant's company, impersonating two of the Complainant's employees in its Human Resources and Talent Acquisition areas. That the Respondent has used the personal name of one of the Complainant's impersonated employees to register the disputed domain name as revealed by the Registrar in this proceeding. That, given this fact, the Respondent cannot reasonably pretend it was intending to legitimately use the disputed domain name.

That the Respondent has no intention of developing a legitimate activity through the disputed domain name and that the Respondent registered the disputed domain name for the sole purpose of taking unfair advantage of the Complainant's reputation and disrupting its business, which cannot be considered as a bona fide offering of goods or services.

That in addition to using the information of one of the Complainant's impersonated employees, the Respondent listed as its address a small village in Italy with a listed population of 10 people and a telephone number with a United States prefix, strongly suggesting that the contact information was fabricated when registering the disputed domain name. That this conduct has been weighed by previous UDRP panels when judging whether a respondent's use of a domain name constitutes a legitimate fair use (and cites [WIPO Overview 3.0](#), section 2.5.3).

That previous UDRP panels have found that the use of a disputed domain name for illegal activity (such as impersonation and phishing) can never confer rights or legitimate interests to a respondent (and cites *Syngenta Participations AG v. Guillaume Texier, Gobain Itd*, WIPO Case No. [D2017-1147](#); *Educational Testing Service v. Ali Mohammed Ahmed, Afakcenter*, WIPO Case No. [D2017-1600](#) and [WIPO Overview 3.0](#), section 2.13).

That the disputed domain name consists of the Complainant's well-known ENERGIZER trademark and the meaningless term "holdngs", which does not have a particular meaning, but which can be considered as a typo of the word "holdings", and that such construction may be considered as a typosquatted version of the Complainant's energizerholdings.com domain name, which also matches the business name of the Complainant's parent company (Energizer Holdings Inc). That given these facts, it can be considered that the Respondent registered the disputed domain name for misleading purposes, and consequently does not have legitimate interests to or rights in the disputed domain name (and cites *Philip Morris Brands Sàrl v. Pmi Int, Philipmorrisinternationals*, WIPO Case No. [D2018-0105](#)).

III. Registered or Used in Bad Faith

That the fact that the Respondent used the disputed domain name in connection with a phishing scheme, impersonating two of the Complainant's employees, shows bad faith in the Respondent's registration and use of the disputed domain name.

That it is implausible that the Respondent was unaware of the Complainant and its products while registering the disputed domain name, especially given that the Respondent registered the disputed domain name under the name of one of the Complainant's impersonated employees. That bad faith can be found when a respondent "knew or should have known" of a complainant's trademark, and that previous UDRP panels have considered that, where the complainant's trademark is widely known, a respondent cannot credibly claim to have been unaware of said trademark (and cites [WIPO Overview 3.0](#), section 3.2.2). That the Complainant's ENERGIZER trademarks are used globally given the Complainant's presence in the market for more than 30 years, which makes it difficult to imagine that the Respondent did not have the Complainant in mind when registering the disputed domain name.

Additionally, the Complainant argues that the registration of the disputed domain name occurred almost 30 years after the registration of the Complainant's domain name energizer.com which corresponds to its official website, and that the earliest ENERGIZER trademark registration predates the registration of the disputed domain name by more than 30 years.

That the additional term "holdngs" is an obvious typo of the term "holdings" used as part of the Complainant's parent company name (Energizer Holdings Inc). That the Complainant also operates the website to which its domain name energizerholdings.com resolves, which indicates that the Respondent had the Complainant in mind when registering the disputed domain name. Additionally, that the incorporation of the term "holdngs" suggests that the Respondent had the intention of misleading Internet users into thinking that the disputed domain name is connected to the Complainant.

That bad faith has been found when a domain name is so obviously connected to a trademark that its use by someone with no connection to the trademark suggests opportunistic bad faith (and cites *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#) and *Sanofi-Aventis v. Nevis Domains LLC*, WIPO Case No. [D2006-0303](#)).

That the Respondent's bad faith in the registration of the disputed domain name is also evident in the Respondent's use of a privacy shield to prevent the Complainant and the Panel from knowing their identity and eventually avoid being notified of the present UDRP proceedings (and cites [WIPO Overview 3.0](#), section 3.6).

That paragraph 2 of the Policy sets forth that when someone registers a domain name, they represent or warrant that to their knowledge, the registration of the domain name does not infringe the rights of any third party, meaning that the Respondent had a duty of verifying that the registration of the disputed domain name would not infringe the rights of any third party before registering the disputed domain name (and cites *Nike, Inc. v. B.B. de Boer*, WIPO Case No. [D2000-1397](#) and *Carolina Herrera, Ltd. v. Alberto Rincon Garcia*, WIPO Case No. [D2002-0806](#)).

That it is virtually certain that the Respondent deliberately chose the disputed domain name and registered it in bad faith in order to make a commercial gain and disrupt the Complainant's legitimate activities. That a quick search for the Complainant's ENERGIZER trademarks would have revealed to the Respondent the existence of the Complainant and its trademarks, and that the Respondent's failure to do so is a contributory factor of its bad faith (and cites *Lancôme Parfums et Beauté & Cie, L'Oréal v. 10 Selling*, WIPO Case No. [D2008-0226](#)).

That even in the implausible supposition that the Respondent was not aware of the Complainant, a simple search via Google or any other search engine using the keywords "energizer" or "energizer holdings" would have demonstrated the Complainant's existence, activities, history, products, news and locations of official distributors.

That given the Complainant's worldwide reputation, it is hard to believe that the Respondent was unaware of the Complainant's ENERGIZER trademark when registering the disputed domain name, and that knowledge of such trademark at the time of registration of the disputed domain name suggests bad faith (and cites *Caixa D'Estalvis I Pensions de Barcelona ["La Caixa"] v. Eric Adam*, WIPO Case No. [D2006-0464](#)).

That there is little to no doubt that the Respondent was aware at all times of the Complainant's ENERGIZER trademark and its reputation worldwide. That the disputed domain name is confusingly similar to the Complainant's ENERGIZER trademark, and that previous UDRP panels have found that a likelihood of confusion will inevitably result in the diversion of Internet traffic from the Complainant's website to the Respondent's website (and cites *Edmunds.com, Inc. v. Triple E Holdings Limited*, WIPO Case No. [D2006-1095](#)).

That given that the disputed domain name resolves to a website with no content, it could be argued that it is currently passively held by the Respondent, and that passive holding does not preclude the finding of bad faith, and that previous UDRP panels have set forth the following factors to be considered relevant in applying the passive holding doctrine (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 their identity or use of false contact details (noted to be in breach of the registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. It should be emphasized that it is not required that all the above-listed factors be present in order to establish bad faith use of the disputed domain name (and cites *Cleveland Browns Football Company LLC v. Andrea Denise Dinoia*, WIPO Case No. [D2011-0421](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); *Compagnie Générale des Etablissements Michelin v. K Nandalal, BlueHost*, WIPO Case No. [D2021-3990](#), and [WIPO Overview 3.0](#), section 3.3).

That in the present case it cannot be disputed that the Complainant's ENERGIZER trademark is widely known and enjoys a reputation and that, given its notoriety, it is difficult to imagine any good faith use to which the disputed domain name may be put.

That it is likely that the Respondent registered the disputed domain name in order to prevent the Complainant from using its ENERGIZER trademark in the disputed domain name, and to prevent the Complainant from registering the disputed domain name, which constitutes evidence of bad faith (and cites *L'oreal v. Chenxiansheng*, WIPO Case No. [D2009-0242](#)).

That it is clear that the Respondent is trying to benefit from the fame of the Complainant's ENERGIZER trademark, making it seem likely that the Respondent's primary motive in registering the disputed domain name was to capitalize on, or otherwise take advantage of, the goodwill of the Complainant.

B. Respondent

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

6. Discussion and Findings

Given the Respondent's failure to address the case merits as they relate to the three UDRP elements, the Panel may decide this proceeding based on the Complainants' undisputed factual allegations under paragraphs 5(f), 14(b), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#), and *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#); see also [WIPO Overview 3.0](#), section 4.3).

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 its rights in respect of its ENERGIZER trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name is confusingly similar to the Complainant's ENERGIZER trademark because it reproduces it entirely ([WIPO Overview 3.0](#), section 1.7), and because the incorporation of the term "holdngs" with the omission of the letter "i" between the letters "d" and "n" does not prevent a finding of confusing similarity (see section 1.8 of the [WIPO Overview 3.0](#)).

The addition of the gTLD ".com" to the disputed domain name constitutes a technical requirement of the domain name system. Thus, it has no legal significance in assessing identity or confusing similarity in the present case (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#); and *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#) and [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.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights to 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 to 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 to or legitimate interests in the disputed domain name. The Respondent, by failing to address the Complainant's contentions, has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights to or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, here evidenced to be phishing and impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

The Complainant has ascertained its rights over its ENERGIZER trademark. The Panel agrees with previous panels appointed under the Policy, in that the ENERGIZER trademark is well known. The dates of registration of the Complainant's trademarks significantly precede the date of registration of the disputed domain name.

In the present case, the Panel notes that the Complainant has submitted evidence showing that the disputed domain name has been used by the Respondent to impersonate the Complainant by sending fraudulent emails offering non-existent job offers. The evidence comprised in the case file indicates that the Respondent has reproduced the Complainant's ENERGIZER trademark and used the names of actual employees of the Complainant to forge email communications which look like genuine messages originated from the Complainant.

In the present case, the Panel notes that the Respondent registered the disputed domain name on September 14, 2024, well after the Complainant obtained its first registrations for its ENERGIZER trademark and began using said trademark in such a widespread manner as to render it well known.

The Respondent's bad faith registration is evidenced by the fact that (1) the ENERGIZER trademark is registered in several jurisdictions, including the European Union, where the Respondent is reportedly located; (2) the disputed domain name is confusingly similar to the well-known ENERGIZER trademark, as it incorporates it entirely, nearly identical to the Complainant's own domain name <energizerholdings.com>, and also corresponds to the name of the Complainant's parent company, Energizer Holdings Inc; (3) the Complainant has provided enough evidence showing the use of the disputed domain name for a phishing scheme by means of the creation and dispatch of fraudulent emails offering non-existent jobs; (4) the Complainant has proven that the Respondent has impersonated two employees of the Complainant; (5) the Complainant has submitted evidence of extensive worldwide use of the ENERGIZER trademark prior to the date of registration of the disputed domain name, and (6) the Respondent has provided false contact information when registering the disputed domain name, which prevented the courier from delivering the Center's written communication.

The use of a domain name for illegal purposes, such as phishing, also constitutes bad faith under the Policy (see *Arla Foods Amba v. Michael Guthrie, M. Guthrie Building Solutions*, WIPO Case No. [D2016-2213](#) and *Minerva S.A. v. Whoisguard Protected, Whoisguard, Inc., / GREYHAT SERVICES*, WIPO Case No. [D2016-0385](#)). See also [WIPO Overview 3.0](#), section 3.4.

On the uncontested evidence, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith.

The Panel finds that the Complainant has established the third 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 <energizerholdngs.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: January 3, 2025