

## ADMINISTRATIVE PANEL DECISION

Constellation Energy Corporation v. Hector Rice  
Case No. D2024-5276

### 1. The Parties

Complainant is Constellation Energy Corporation, United States of America (“United States”), represented by Riley Safer Holmes & Cancila LLP, United States.

Respondent is Hector Rice, United States.

### 2. The Domain Name and Registrar

The Disputed Domain Name <constellationenergyco.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 December 20, 2024. On December 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 23, 2024, 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 Complainant on December 24, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on December 28, 2024.

The Center verified that the Complaint together with the amendment to 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 Respondent of the Complaint, and the proceedings commenced on December 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 19, 2025. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 20, 2025.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on January 22, 2025. 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 states that it is “the nation’s largest producer of reliable, clean, carbon-free energy and a leading competitive retail supplier of power and energy products and services for homes and business across the United States”. Complainant further states, and provides evidence in support thereof, that it is the owner of the following trademark registrations in the United States (the “CONSTELLATION Trademark”), among others:

- Reg. No. 2,161,537 for CONSTELLATION ENERGY (registered June 2, 1998)
- Reg. No. 4,343,586 for CONSTELLATION (registered May 28, 2013)
- Reg. No. 4,472,604 for CONSTELLATION (registered January 21, 2014)

The Disputed Domain Name was created on July 13, 2024, and, as the Complaint states, “redirects to one of [Complainant’s] websites, constellation.com” and has been used by Respondent “to send multiple fraudulent emails to vendors impersonating Constellation employees and attempting to trick them into wiring Respondent thousands of dollars”.

#### **5. Parties’ Contentions**

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

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name. Notably, Complainant contends that:

- The Disputed Domain Name is confusingly similar to the CONSTELLATION Trademark because, inter alia, the Disputed Domain Name contains the CONSTELLATION Trademark in its entirety, with the addition of “the descriptive term ‘co’, which is legally irrelevant”.
- Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, Respondent “is not associated with” Complainant; Complainant has never “authorized Respondent to use” the CONSTELLATION Trademark; Respondent has used the Disputed Domain Name for illegal activity by impersonating Complainant; “there is no evidence that Respondent is commonly known as ‘Constellation Energy Co.’ or ‘Constellation Energy Company’”; and “Respondent does not have trademark rights in either term and has not filed applications for such rights”.
- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, Respondent has used the Disputed Domain Name “to send multiple fraudulent emails to vendors impersonating Constellation employees and attempting to trick them into wiring Respondent thousands of dollars”, which “is the epitome of bad faith registration and use of a domain”.

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

Respondent did not reply to Complainant’s contentions.

## 6. Discussion and Findings

### 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 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.

Based on the trademark registrations cited in the Complaint, Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy, that is, the CONSTELLATION Trademark. [WIPO Overview 3.0](#), section 1.2.1.

As to whether the Disputed Domain Name is identical or confusingly similar to the CONSTELLATION Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., "constellationenergyco"), as it is well-established that the Top-Level Domain (i.e., ".com") may be disregarded for this purpose. [WIPO Overview 3.0](#), section 1.11: "The applicable Top Level Domain ('TLD') in a domain name (e.g., '.com', '.club', '.nyc') is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test."

The entirety of the CONSTELLATION Trademark is reproduced within the Disputed Domain Name. As set forth in [WIPO Overview 3.0](#), section 1.7, "where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing". The Panel finds the CONSTELLATION Trademark is recognizable within the Disputed Domain Name. Furthermore, although the Disputed Domain Name contains the additional word "co" (an abbreviation for "company"), [WIPO Overview 3.0](#), section 1.8, states that "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element".

Accordingly, the Disputed Domain Name is confusingly similar to the CONSTELLATION Trademark for the purposes of the Policy, and 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 a 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 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 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 Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Disputed Domain Name such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

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

Whether a domain name is registered and used in bad faith for purposes of the Policy may be determined by evaluating four (non-exhaustive) factors set forth in the Policy: (i) circumstances indicating that the registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location. Policy, paragraph 4(b).

As set forth in section 3.1.4 of [WIPO Overview 3.0](#), “[p]anels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”; “redirecting the domain name to the complainant's... website” supports a finding of bad faith; and “given that the use of a domain name for per se illegitimate activity such as the sale of counterfeit goods or phishing can never confer rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith”.

Accordingly, the Panel finds that 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 <constellationenergyco.com> be transferred to Complainant.

/Douglas M. Isenberg/

**Douglas M. Isenberg**

Sole Panelist

Date: January 29, 2025