

ADMINISTRATIVE PANEL DECISION

INEOS Capital Limited v. Boligha Samuel, Boomshake Plc
Case No. D2024-2417

1. The Parties

The Complainant is INEOS Capital Limited, United Kingdom, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Boligha Samuel, Boomshake Plc, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <ineos-energyuk.com> is registered with NameSilo, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") and received on June 12, 2024. On June 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 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 (Domain Administrator, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 14, 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 June 19, 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").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 20, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 11, 2024.

The Center appointed Pedro W. Buchanan Smith as the sole panelist in this matter on July 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 INEOS Capital Limited is a chemical company with 25 years of history. In recent years, the Complainant has expanded its operations beyond its original core chemicals business into oil and gas, energy solutions, automotive manufacturing, fashion, sport, and more. The trademarks relevant to this instant matter are:

- INEOS trademark registered on April 26, 2005, before the UKIPO - United Kingdom Intellectual Property Office under registration number UK00902429264 under Nice International Classification on classes 5, 9, 11, 17, and 19.
- INEOS trademark registered on August 29, 2003, before the UKIPO under registration number UK00002284144 under Nice International Classification on classes 1, 2, 3, 5, 9, 11, 17, and 19.
- INEOS International trademark registered on October 16, 2007 under registration number 972370 under Nice International Classification on classes 1, 2, 3, 4, 5, 9, 11, 17, 19, 35, 37, 39, 40, 42, and 45.
- INEOS trademark registered on April 9, 2010, before the UKIPO under registration number UK00002454131 under Nice International Classification on classes 1, 2, 3, 4, 5, 7, 9, 10, 11, 16, 17, 19, 35, 36, 37, 39, 40, 42, 43, 44, and 45.
- INEOS International trademark registered on August 22, 2017 under registration number 1372214 under Nice International Classification on classes 9, 12, 16, 35, 41, and 42.

The Complainant hosts its website through its primary domain name <ineos.com>, registered since April 20, 1998.

The disputed domain name was registered on October 22, 2023, and redirects to the Complainant's domain name <ineos.com>. The Respondent has also used the disputed domain name to send fraudulent emails in connection with a job scam impersonating the Complainant's actual HR Director.

5. Parties' Contentions

A. Complainant

Complainant is the owner of the INEOS trademark as evidenced by trademark and service mark registrations shown in its complaint. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at 1.2.1 ("Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.").

1. Complainant is not required to register its marks within the country of the Respondent in order to protect its rights in those marks. See [WIPO Overview 3.0](#) at 1.1.2 ("Noting in particular the global nature of the Internet and Domain Name System, the jurisdiction(s) where the trademark is valid is not considered relevant to panel assessment under the first element.").

2. It is standard practice when comparing a disputed domain name to Complainant's trademarks, to not take the extension into account. See [WIPO Overview 3.0](#) at 1.11.1 ("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.").

3. In creating the disputed domain name, Respondent has added the generic, descriptive term "energy uk" to Complainant's INEOS trademark, thereby making the disputed domain name confusingly similar to Complainant's trademark. The fact that such term is closely linked and associated with Complainant's brand, trademark and names of legal entities owned and operated by the Complainant only serves to underscore and increase the confusing similarity between the disputed domain name and the Complainant's trademark. More specifically:

"energy uk" – One of Complainant's core businesses is its INEOS Energy business. INEOS Energy produces and trades oil, gas, Liquefied Natural Gas (LNG) and carbon credits. A number of legal entities within the INEOS Energy business incorporate "INEOS Energy" into their company names, including INEOS Energy Trading Limited and INEOS Energy LNG Limited (both of which are incorporated in the UK), INEOS Energy Marketing USA LLC, INEOS Energy (Lulita) A/S and INEOS Energy (Syd Arne) ApS. The INEOS Energy UK business employs approximately 100 employees in Europe and holds 5 exploration licenses.

4. Past Panels have consistently held that a disputed domain name that consists merely of a complainant's trademark and an additional term that closely relates to and describes that complainant's business is confusingly similar to that complainant's trademarks. See *Inter IKEA Systems B.V. v. Franklin Lavelle/ IkeaCuisine.net*, WIPO Case No. [D2015-2042](#) ("The confusing similarity between the disputed domain name and the Complainant's IKEA trademark is in fact further enhanced by the inclusion of a term that relates to the furniture business of the Complainant").

5. Respondent's addition of a hyphen between Complainant's INEOS trademark and the related term "energy uk" does nothing to distinguish the disputed domain name from Complainant's trademarks. In other words, the use of such hyphen does not diminish the confusing similarity between the Disputed Domain Name and Complainant's trademarks and should be disregarded for purposes of making this determination. See *Chernow Commc'ns, Inc. v. Kimball*, WIPO Case No. [D2020-0119](#) (Holding "that the use or absence of punctuation marks, such as hyphens, does not alter the fact that a name is identical to a mark").

6. Respondent is presently using the disputed domain name to redirect back to Complainant's actual website all in furtherance of an email phishing scheme. Such use is clear evidence that Respondent intended the disputed domain name to be confusingly similar to Complainant's trademark as a means of furthering consumer confusion. Although the content is usually disregarded under the first element of the UDRP, Panels have "taken note of the content of the website associated with a domain name to confirm confusing similarity where it appears prima facie that the respondent seeks to target a trademark through the disputed domain name" See [WIPO Overview 3.0](#) at 1.15. As a result, Respondent's use of the disputed domain name to redirect to the Complainant's primary domain name in order to facilitate a phishing scheme is further evidence that the disputed domain name is confusingly similar to Complainant's trademark.

7. The granting of registrations to Complainant for the INEOS trademark is prima facie evidence of the validity of the term "ineos" as a trademark, of Complainant's ownership of this trademark, and of Complainant's exclusive right to use the INEOS trademark in commerce on or in connection with the goods and/or services specified in the registration certificates.

8. Respondent is not sponsored by or affiliated with Complainant in any way. Respondent is not commonly known by the disputed domain name, which evidences a lack of rights or legitimate interests. See *World Natural Bodybuilding Federation, Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#) (finding that a respondent, or his/her organization or business, must have been commonly known by the at-issue domain at the time of registration in order to have a legitimate interest in the domain).

9. Complainant has not licensed, authorized, or permitted Respondent to register domain names incorporating Complainant's trademark. "In the absence of any license or permission from the Complainant to use its trademark, no actual or contemplated bona fide or legitimate use of the disputed domain name could reasonably be claimed." See *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#).

10. Respondent's use of the disputed domain name does not constitute a bona fide offering of goods or services pursuant to Policy 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy 4(c)(iii). Here, Respondent is using a confusingly similar domain name to redirect back to Complainant's own website, in order to create the impression that Respondent's website and email is one that is authorized and administered by Complainant, for the sole purpose of sending emails which have the appearance of coming from Complainant's representatives.

The emails, sent from the domain name "@ineos-energyuk.com", were directed to potential job applicants and falsely claimed that Complainant had received the recipient's resume from a global job board partner for the job position of "Process Engineer." The emails asked for the applicants to complete the "INEOS ENERGY online questionnaire/interview document." This document requests personal information and includes Complainant's copyrighted logo.

Respondent's emails go so far as to include the Complainant's address and the name of Complainant's actual HR Director. By sending emails asking for recipients to provide personal information to emails created through the disputed domain name, Respondent is attempting to pass itself off as the Complainant, in an attempt to 'phish' personal information from Complainant's job applicants (in the event that Respondent seeks to obtain visitors' personal information as part of a larger scheme to perpetrate fraud by exploiting the fraudulently acquired personal information to, perhaps, acquire sensitive financial information).

This use of the disputed domain name, presumably for commercial gain, and with devious, nefarious motives, clearly fails to constitute a bona fide offering of goods or services pursuant to Policy 4(c)(i) or a legitimate noncommercial or fair use pursuant to Policy 4(c)(iii). See [WIPO Overview 3.0](#) at 2.13.1 ("Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent."). See also *Syngenta Participations AG v. Guillaume Texier, Gobain Ltd*, WIPO Case No. [D2017-1147](#) (A registrant cannot acquire rights or legitimate interests by the use of a domain name as an email address from which to send phishing emails).

11. Respondent registered the disputed domain name on October 22, 2023, which is significantly after Complainant filed for registration of its INEOS trademark, and also significantly after Complainant's first use in commerce of its trademark in 1998. Additionally, Complainant registered its primary domain name <ineos.com> on April 20, 1998, which is decades prior to Respondent's registration of the disputed domain name on October 22, 2023.

12. Complainant further contends that the disputed domain name was registered and is being used in bad faith.

13. The Complainant and its INEOS trademark are known internationally, with trademark registrations across numerous countries. The Complainant has marketed and sold its goods and services using this trademark since 1998, which is well before Respondent's registration of the disputed domain name on October 22, 2023. By registering a domain name that incorporates the Complainant's INEOS trademark in its entity and includes the relevant term "energy uk," Respondent has created a domain name that is confusingly similar to Complainant's trademark, as well as its <ineos.com> domain. As such, Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business. Furthermore, Respondent's use of the domain name to redirect back to Complainant's own website and set up email accounts and pose as a current employee of the Complainant in order to carry out phishing attacks demonstrates Respondent's knowledge and research of the Complainant. In light of the facts set forth within

this Complaint, it is “not possible to conceive of a plausible situation in which the Respondent would have been unaware of” the Complainant’s brands at the time the disputed domain name was registered. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

14. Where the disputed domain name is being used as part of a phishing scheme, “it defies common sense to believe that Respondent coincidentally selected the precise domain without any knowledge of Complainant and its trademarks.” See *Asian World of Martial Arts Inc. v. Texas International Property Associates*, WIPO Case No. [D2007-1415](#). Respondent has registered and used the disputed domain name for purposes of launching a phishing attack, which is clear evidence of bad faith registration and use.

After first creating a strong likelihood of confusion by misappropriating the Complainant’s trademarks in the disputed domain name, Respondent has used the disputed domain name to send emails posing as the Complainant and offering employment with the Complainant. Respondent’s efforts to masquerade as Complainant in an attempt to solicit sensitive, personal information from unsuspecting people certainly constitute fraud, which must be considered bad faith registration and use of the disputed domain name. See [WIPO Overview 3.0](#) at 3.1.4.

There is no evidence, including the Whois record for the disputed domain name, suggesting that Respondent is commonly known by the disputed domain name, the Respondent cannot be regarded as having acquired rights to or legitimate interests in the disputed domain name, given that the use of a domain name for per se illegitimate activity such as phishing can never confer rights or legitimate interests on a respondent, and furthermore such behavior is manifestly considered evidence of bad faith. Similarly, panels have found that a respondent redirecting a domain name to the complainant’s website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant. See also *The Coca-Cola Company v. PrivacyProtect.org/ N/A, Stephan Chukwumaobim*, WIPO Case No. [D2012-1088](#) (finding that the disputed domain name was registered in bad faith as an attempt to attract Internet users to Respondent’s site or on-line location for commercial gain by creating a likelihood of confusion with Complainant’s mark with a phishing scam conducted via text message).

15. Respondent, at the time of initial filing of the Complaint, had employed a privacy service to hide its identity, which past Panels have held serves as further evidence of bad faith registration and use. See *Dr. Ing. H.C. F. Porsche AG v. Domains by Proxy, Inc.*, WIPO Case No. [D2003-0230](#). See also [WIPO Overview 3.0](#) at 3.6 (“Panels have also viewed a respondent’s use of a privacy or proxy service which is known to block or intentionally delay disclosure of the identity of the actual underlying registrant as an indication of bad faith.”).

16. The Complainant therefore contends, that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy directs that the Complainant must prove the presence of each of the following elements:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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 disputed domain name incorporates the Complainant's INEOS in its entirety. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. The Panel finds the addition of the terms "energyuk" does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The addition of the generic Top-Level domain ("gTLD") ".com" is just a standard registration requirement and as such may be disregarded when assessing confusing similarity under the first element of the Policy. [WIPO Overview 3.0](#), section 1.11.1.

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 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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in connection with the Complainant's INEOS trademark nor with the disputed domain name. The Respondent has not rebutted the 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.

As this is a case of illegal activity, it is important to mention that Panels have held that the use of a domain name for illegal activity (as applicable to this case: phishing, impersonation/passing off, or other types of fraud), can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Furthermore, as indicated by the Complainant, the Respondent is not commonly known by the disputed domain name as contemplated under paragraph 4(c)(ii) of the Policy; nor that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue as contemplated under paragraph 4(c)(iii) of the Policy.

In summary, the Respondent has no rights or legitimate interests in respect of the disputed domain name, and Complainant provided sufficient evidence of the above, under paragraph 4(c) (ii) and (iii) of then Policy.

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. Other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith.

[WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website.

Panels have held that the use of a domain name for illegal activity, (here claimed as phishing, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

In summary, the Respondent registered and used in bad faith the disputed domain name, and Complainant provided sufficient evidence of the above.

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 <ineos-energyuk.com> be transferred to the Complainant.

/Pedro W. Buchanan Smith/

Pedro W. Buchanan Smith

Sole Panelist

Date: July 26, 2024