

**Decision for dispute CAC-UDRP-105563**

Case number	CAC-UDRP-105563
Time of filing	2023-06-26 09:19:31
Domain names	ovoenergy.com, ovoenergy.com, ovoenergygy.com, ovoenergygy.com, ovooenergy.com, vooenergy.com, ovoenersy.com, ovoenergy.ltd

**Case administrator**

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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**Complainant**

Organization	OVO Group Limited
Organization	OVO Energy Limited

**Complainant representative**

Organization	Stobbs IP
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**RESPONDENTS**

Name	Robert Kovac Mueller
Organization	Fundacion Comercio Electronico
Organization	ao wo guang zhou guo ji mao yi you xian gong si

**OTHER LEGAL PROCEEDINGS**

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain names.

**IDENTIFICATION OF RIGHTS**

The First Complainant has been granted an exclusive licence for the OVO ENERGY brands from the Proprietor. The Second Complainant has been granted a non-exclusive sub-licence of the OVO ENERGY brand from the First Complainant.

**FACTUAL BACKGROUND**

The First Complainant has been granted an exclusive licence for the OVO ENERGY brands from the Proprietor. The Second Complainant has been granted a non-exclusive sub-licence of the OVO ENERGY brand from the First Complainant. The Complainants' OVO ENERGY brand has a significant reputation and has built up a vast amount of goodwill in the sign globally in relation to the energy industry. The Complainant has advertised significantly through London's transport network, featuring

advertisements on buses and taxis. The Complainants continue to amass a large following for the OVO ENERGY brand on social media, in addition to promotional activity in the physical world, on city transport and partnering with live events.

There are eight disputed domain names in this case: <ovoenenergy.com>, <ovoeneenergy.com>, <ovoenerggy.com>, <ovoenerrgy.com>, <ovooenergy.com>, <vooenergy.com>, <ovoenersy.com> and <ovoenergy.ltd>.

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#### PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it.

No administratively compliant Response has been filed.

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#### RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

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#### NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain names (within the meaning of paragraph 4(a)(ii) of the Policy).

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#### BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names have been registered and are being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

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#### PROCEDURAL FACTORS

##### *Request for Consolidation:*

The Complaint was filed by multiple Complainants against multiple Respondents, and therefore the Panel needs to first decide if consolidation will be proper in this case.

In terms of joining the two Complainants, the First Complainant has been granted an exclusive licence for the OVO ENERGY brands from the Proprietor. The Second Complainant has been granted a non-exclusive sub-licence of the OVO ENERGY brand from the First Complainant. In accordance with paragraph 1.4, sub-paragraph 1.4.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0"), *"1.4.1 A trademark owner's affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint.* Therefore, the First Complainant should be able to act on the proprietor's behalf in filing this complaint.

As for the Second Complainant, as the non-exclusive sub-licensee, the Second Complainant does not have sole standing to file this complaint absent other evidence. However, in accordance with WIPO Jurisprudential Overview 3.0, paragraph 1.4.2 *Where multiple related parties have rights in the relevant mark on which a UDRP complaint is based, a UDRP complaint may be brought by any one party, on behalf of the other interested parties; in such case, the complainant(s) may wish to specify to which of such named interested parties any transfer decision should be directed.* The needs and rights of the First and the Second Complainant are closely related. Therefore, the request to join both Complainant in the same proceeding should be grant.

In addition, the Complainants would like to consolidate multiple domain names held by different Respondents (and registered in different Registrars) in the same proceeding. Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. At the same time, paragraph 3(c) of the UDRP Rules provides that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain-name holder. As these domain names are hold by different domain name holders, the Panel needs to examine whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties.

Viewing facts of this case, it does not seem that the Complainants have been able to establish the domain names are subject to common control but for the fact of mere similarities of the domain names. The Complainants also submit the Whois details for the "Disputed Domain Names show the registrant has been redacted from the public Whois records", "the domains feature a common

naming convention", etc. Nonetheless, those similarities are also common among domain names held by different registrants. In addition, as pointed out by the Complainant, granting such consolidation request would be fair and equitable to all parties. The Complainants have failed to meet the burden of proof demonstrating that why if no consolidation is granted the both parties will suffer immediate procedural unfairness and/or inequity. Therefore, this Decision will only determine rights concerning the disputed domain names registered to Respondent Robert Mueller: <ovoenergy.com>, <ovoeneergy.com>, <ovoenerggy.com>, <ovoenerrgy.com>, <ovooenergy.com> and <vooenergy.com>.

#### *Language of the Proceeding:*

For the disputed domain names registered by the Respondent Robert Mueller, the language of the Dynadot LLC registration agreements is English.

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#### PRINCIPAL REASONS FOR THE DECISION

*The disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainants has rights.*

In most of the disputed domain names, the two words of the Complainants' trademark "Ovo" and "Energy" have been incorporated in full. The Complainants also note the repetition of specific characters within the disputed domain names. Similarities can be inferred between the repetition of characters within <ovooenergy.com>; <ovoenergy.com>; <ovoenerggy.com>; <ovoenerrgy.com>; and <vooenergy.com>. gTLDs ".com" are commonly viewed as a standard registration requirement, and as such they are disregarded under the first element confusing similarity test.

The Panel therefore concludes that the disputed domain names are confusingly similar to a trademark in which the Complainants have rights within the meaning of paragraph 4(a)(i) of the Policy.

*The Respondents has no rights or legitimate interests in respect of the disputed domain names.*

Although the Respondent did not file an administratively compliant (or any) response, the Complainant is still required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainants in the present case have not licensed or authorized the Respondent to register or use its trademark or the disputed domain names. There is no evidence that the Respondent is known by the disputed domain names or owns any corresponding registered trademarks. The organization of the Respondent, "Robery Mueller", also has no connection with the Complainants' brand. The Complainants did not grant any license or authorization to the Respondent to register or use the disputed domain names, nor the use of the Complainants' trademark on pages of the disputed websites.

On the basis of preponderance of evidence, and in the absence of any evidence to the contrary or any administratively compliant response being put forward by the Respondent, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain names within the meaning of paragraph 4(a)(ii) of the Policy.

*The disputed domain names have been registered and are being used in bad faith*

The use and registration of the disputed domain names by the Respondent has been done in bad faith.

First of all, the registrations of the disputed domain names by the Respondent were done in bad faith. OVO Energy brand and the Complainants' operations have amassed reputation in the energy industry since 2009. The earliest disputed domain names were registered on 5 April 2023, almost ten years later than that the Complainants' brand became an active player in the field. UDRP panels have consistently held that the mere registration of a domain name that is confusingly similar to a famous trademark by an unaffiliated entity can by itself create a presumption of bad faith. With the reputation of the Ovo Energy trademark, the presumption arises that the disputed domain names were registered with the intention to attract Internet users by creating a likelihood of confusion with the well-known Ovo Energy trademark.

Secondly, the use of the disputed domain names was in bad faith. The disputed domain names currently resolve to live websites that feature pay-per-click ('PPC') links relevant to the industry of the Complainants. Given the similarity to the Complainants' well-established brand and the current status of those websites, it would be hard to argue otherwise that the Respondent has planned for any legitimate use of those disputed domain names.

Therefore, in the absence of any evidence to the contrary (or any administratively compliant response) being put forward by the Respondent, the Panel determines that the Complainants provided prima facie evidence undisputed by the Respondent that the disputed domain names were registered and are being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

Given the Panel' decision not to consolidate the remaining two disputed domain names, the part of the Complaint concerning the remaining disputed domain names is rejected, without prejudice, should the Complainants plan to file separate claims in the future.

Partially Accepted/Partially Rejected

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

- 1. **ovoenenergy.com**: Transferred
- 2. **ovoeneergy.com**: Transferred
- 3. **ovoenergygy.com**: Transferred
- 4. **ovoenerrgy.com**: Transferred
- 5. **ovooenergy.com**: Transferred
- 6. **vooenergy.com**: Transferred
- 7. **ovoenersy.com**: Remaining with the Respondent
- 8. **ovoenergy.ltd**: Remaining with the Respondent

PANELLISTS

Name	Carrie Shang
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DATE OF PANEL DECISION	2023-08-01
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Publish the Decision