

Decision for dispute CAC-UDRP-102178

Case number CAC-UDRP-102178

Time of filing 2018-10-18 11:10:20

Domain names eonix.com

Case administrator

Name Šárka Glasslová (Case admin)

Complainant

Organization Eonix SA

Respondent

Name Ramesh Alluri

OTHER LEGAL PROCEEDINGS

The Panel is not aware of other legal proceedings related to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is owner of a Benelux wordmark, BX Reg. No. 0945305, application date Sept. 5th, 2013.

FACTUAL BACKGROUND

The disputed Domain name was created in 2000 and in possession of the Respondent since November 2006, search eonix.com at <http://www.hosterstats.com/>. The owner is a natural person, resident of the U.S.A.

The trademark of the Complainant is a BX wordmark, Reg. No. 0945305, application date Sept. 5th, 2013. The Complainant is a limited liability corporation, Company name "EONIX SA", seated in Belgium. The company was founded in 2007, see <http://eonix.be/>.

The trademark of the Eonix Corporation, Canada, is a Canadian wordmark, CA Reg. No. TMA587745, application date Feb. 5th, 2002, status registered.

Between the Canadian and the Belgian "EONIX" Companies is no link, just an accidental identity in the company names.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant principally makes the following assertions:

- The disputed name is the Complainant's company name, protected by a trademark (see factual background). Hence,

"EONIX" is a name for which the following right is recognised within the UDRP arbitration system. The protection of Trademarks is granted.

- The Respondent registered the disputed domain name without rights and legitimate interest in the name and established a website with bad faith content and offers the domain.
- there existed an elder "EONIX" Company in Canada which was owner of the disputed domain name before.
- The present complaint is based on the fact that the disputed domain name is identical with the Trademark Word BX No. 0945305 and Company Name "EONIX SA" of the Complainant which is in commercial use in Complainant's branch.
- The Complainant insists that the Respondent registered the domain name without rights and legitimate interest and in bad faith. The Respondent holds the disputed domain for sale.

RESPONDENT:

The Respondent claims that he registered the disputed domain name before the Complainant established his rights and as a legitimate interest in using the disputed domain name based on a business concept. The Respondent, Mr Ramesh Alluri, claims he registered the disputed domain name in good faith.

RIGHTS

The Complainant has not shown the disputed domain name is 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). Assumption is that a Complainant's trademark exists at the relevant time.

As in the case <cloudfare.com>, FORUM FA1506001624252, the trademark in which the Complainant has rights did not exist at the time the Respondent registered the disputed domain name. Though, no identity or confusing similarity occurred. Even the company name which gives under some circumstances a right is not anterior as the disputed domain name (see factual background).

Only the prior Canadian trademark would be such a right which entitles the trademark owner to demand transfer according to the Policy. But this is not relevant in the present case because the Complainant did not show to be entitled to act as the owner of the Canadian Trademark "EONIX".

NO RIGHTS OR LEGITIMATE INTERESTS

Without prior right further checking of rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy) lapsed. Though it remains unaffected if by the Respondent mentioned acronymic technology concept for a use as a website is true or valid.

BAD FAITH

In the opinion of the Panel it is not longer necessary to prove if the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy). Especially when the Respondent is not blocking the Complainant's online presence because the Complainant is using the domain name <eonix.be> for its company purposes.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

According to paragraph 4(a)(i) of the Policy and decisions e.g. FORUM FA1506001624252, the first element, the priority of Trademark rights in which the complainant has rights, is not fulfilled.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. EONIX.COM: Remaining with the Respondent

PANELLISTS

Name Dr. jur. Harald von Herget

DATE OF PANEL DECISION 2018-12-04

Do not publish the Decision
