

Decision for dispute CAC-UDRP-104352

Case number	CAC-UDRP-104352
Time of filing	2022-02-17 09:13:27
Domain names	MULTICARDENI.COM, ENIMULTICARD.COM

Case administrator

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

Organization	Eni S.p.A.
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Complainant representative

Organization	De Simone & Partners Srl
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Respondent

Name	Lin Yanxiao
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OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings relating to the disputed domain names.

IDENTIFICATION OF RIGHTS

European Union trademark No 009427972 from 2013 for "ENI".

US trademark No. 4,730,039 from 2015 for "ENI".

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

Super Privacy Service Ltcd/0 DYNADOT registered the disputed domain names on January 24, 2022, and on January 31, 2022.

In 1953, Eni (Ente Nazionale Idrocarburi) was established; Enrico Mattei was the first Chairman.

In 1999, Eni-Gazprom agreement for the Blue Stream Project: a gas pipeline that will link the Russian coast to Turkey and involves laying gas line beneath the Black Sea at water depths of up to 2,100 meters.

In 2005, August, and September: Eni acquired the exploration license for 104 blocks onshore and offshore Northern Alaska for a total acreage of 1,718 square kilometres. The exploration license for two blocks located onshore and offshore India for a whole lot of 14,445 square kilometres.

In 2006, November 14: Eni and Gazprom signed in Moscow an agreement that sets up an international alliance enabling the two companies to launch joint projects in the mid and downstream gas, in the upstream and technological cooperation.

In 2010, Service Stations Eni had around 4,356 service stations in Italy, of which about 142 are on the motorway network.

Quality, efficiency, modernization of service stations: these are the characteristics that have enabled us over the years to achieve excellent results and, in qualitative terms, positioning ENI's service stations among the best in Europe.

In the more recent years, Eni has become a full energy company very active in green energy.

Furthermore, Eni and ENI formative marks are trademarks extensively registered worldwide in more than 100 countries with more than 1000 trademarks.

The Respondent is an apparent proxy company, and the websites connected to the disputed domain names show simple web parking pages.

On February 10, 2022, the Complainant sent a letter to request the immediate assignment free of cost of the disputed domain names. Still, no reply was ever received from the Respondent or the Proxy's e-mail address.

PARTIES CONTENTIONS

1. The disputed domain names are confusingly similar to the protected mark.

The disputed domain names are confusingly similar to the "ENI" trademarks in which the Complainant has earlier rights. Both disputed domain names completely reproduced the Complainant's famous trademarks ENI with a descriptive addition of MULTICARD, which is a generic commonly used term to mean a card for multiple services. A few years ago, the Complainant launched a project called MULTICARD that has proved to be a great success. This project is still active and can be found at the following address: <https://multicard.eni.com/>.

Furthermore, the addition of the term "MULTICARD" increases the bad faith of the Respondent that not only comprised in its domain names the famous Complainant's trademark, "ENI", but also included in the disputed domain name the term "MULTICARD" previously adopted by the Complainant for its MULTICARD services.

Furthermore, consider that the Complainant owns many domain names comprising "ENI".

Finally, the risk of confusion in the case at issue is also increased because the Complainant's trademarks are well and widely known in the energy and technological sector.

2. The Respondent does not have any rights or legitimate interest in the disputed domain names.

The Respondent's use of the disputed domain names is in no way a bona fide offering of goods and services; it is a blatant web parking that leads the surfers attracted from ENI Multicard to other pages of different sectors. The Respondent has no registered trademark rights in the term "ENI", and there is no evidence that the Respondent is commonly known by the disputed domain name. As herein already mentioned, The Respondent has set up websites that take advantage of the reputation and long-standing history of the two trademarks of ENI to convey ENI potential customers to other sites.

The Respondent has not been licensed or otherwise authorized to use any of the Complainant's trademarks or apply for or use any domain name incorporating such trademarks. Accordingly, in similar circumstances, Panels considered that no

bona fide or legitimate use of the disputed domain name could be claimed by the Respondent.

3. The disputed domain names have been registered and used in bad faith.

In the case at issue, the Respondent's has created a classical web parking site that takes advantage of the trademark "ENI" reputation. Web parking is also an indication of bad faith considering the above circumstances. Some panels have also found that the concept of passive holding may apply even in the event of sporadic use or of the mere "parking" by a third party of a domain name (irrespective of whether the latter should also result in the generation of incidental revenue from advertising referrals).

Bad faith is also blatant if you consider that the Complainant is the owner of the following domain name, copied by the Respondent: <multicard.eni.com>.

As to bad faith registration, when registering the disputed domain names, the Respondent was necessarily aware of the Complainant's well-known business and widespread reputation in the Complainant's trademarks. Therefore, such maneuver would not have been generated if the Respondent did not know the Complainant's activities.

The Respondent has intentionally sought to use Complainant's marks in the disputed domain names to attract Internet users to websites and other online locations for commercial gain by confusing consumers regarding sponsorship of the website. Accordingly, this constitutes bad faith within the meaning of paragraph 4(b)(iv) of the Policy. Moreover, even after the letter was sent to the Respondent, the web parking associated with the disputed domain names has not been cancelled or modified in any way.

The disputed domain names are so obviously connected with the Complainant's trademarks and its services that their very use by someone with no connection suggests "opportunistic bad faith".

However, the Complainant believes it had proved beyond any reasonable doubt that the Register and Respondent have been using the disputed domain name in bad faith and disloyal attitude to attract users to the website in the wrong assumption that these are domain names associated with the Complainant.

RESPONDENT

No administratively compliant Response was filed.

RIGHTS

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

NO RIGHTS OR LEGITIMATE INTERESTS

To the satisfaction of the Panel, the Complainant has 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).

BAD FAITH

To the satisfaction of the Panel, the Complainant has 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).

PROCEDURAL FACTORS

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

1. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has shown it owns rights in the "ENI" trademark since at least 2013 through various trademark registrations.

The Panel now analyzes the potential confusing similarity between the disputed domain names and the trademark. As per the evidence on record, both disputed domain names reproduce the trademark in its entirety, namely, "EMI". Therefore, the Panel will now address each disputed domain name individually. The first disputed domain name, namely <MULTICARDENI.COM>, contains the term "multicard" immediately followed by the reproduction of the trademark "ENI". The second disputed domain name, namely <ENIMULTICARD.COM>, reproduces the trademark "ENI", immediately followed by the term "multicard".

In both instances, the addition of the term "multicard" is immaterial and therefore not substantive enough to dispel the confusing similarity between the disputed domain names and the Complainant's trademarks. Furthermore, this addition may enhance the confusing similarity with the Complainant's trademarks, as the terms appear to refer to services provided by the Complainant. However, further analysis will be discussed under the following elements.

Based on this, the Panel finds the disputed domain names confusingly similar to the Complainant's trademarks. As a result, the Panel determines that the Complaint has satisfied the first element under paragraph 4(a)(i) of the Policy.

2. Rights or Legitimate Interests

For the second element under the Policy, the Complainant argues that the Respondent is not commonly known as the disputed domain names and has no trademark registration. Additionally, the Complainant contends that no evidence would suggest efforts in using the disputed domain names in connection with a bona fide offering, notwithstanding the reasonably recent registration of the disputed domain names. Furthermore, the Complainant claims it has not granted authorization, license, or any rights to the Complaint regarding using the trademark and/or the disputed domain names. Finally, the Respondent did not respond to the cease-and-desist letter dated February 10, 2022.

In the Panel's view, these assertions and the evidence attached to them are enough to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names (see 2.1 of WIPO 3.0 Overview).

Additionally, based on the evidence on record, the disputed domain names are not actively used as they redirect to what appears to be domain name parking pages. Furthermore, there is no evidence suggesting that Respondent has demonstrable plans to use the disputed domain names in a bona fide manner. Past panels have held that the lack of use of a domain name is considered an essential indicator of the absence of legitimate interests by the Respondent. In this case, in particular, the Respondent's reproduction of the trademark with terms commonly associated with services provided by the Complainant appears to fall under an attempt for commercial gain to divert consumers misleadingly or tarnish the trademark or service mark at issue; further analysis will be discussed under the last element. However, for the purposes of this element, this cannot be considered to confer rights or legitimate interests to the Respondent.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

Therefore, the Complainant has fulfilled the second requirement set under paragraph 4(a) of the Policy.

3. Registered and Used in Bad Faith

The Panel finds, as per the evidence on record, that the Respondent was likely aware of the Complainant and targeted the

Complainant's trademark when registering the disputed domain names. This conclusion is reinforced by the reproduction of the Complainant's trademark and the term "multicard", which appear to refer to services extensively promoted by the Complainant; in an apparent effort to misleadingly divert consumers and obtain a financial gain.

Without having any other explanation from the Respondent, on the balance of probability, and in conjunction with the other facts and evidence in this case, the Panel concludes that the most likely intention of the Respondent about the disputed domain names was to intentionally attempted to attract, for commercial gain, Internet users to its website/disputed domain names, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or disputed domain names (see paragraph 3.1 of WIPO 3.0 Overview).

Accordingly, the Panel finds that the Complainant has satisfied the requirements set forth under paragraph 4(a)(iii) of the Policy.

4. Decision

For the preceding reasons and in conformity with the provisions contained under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain names to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MULTICARDENI.COM**: Transferred
2. **ENIMULTICARD.COM**: Transferred

PANELLISTS

Name	Rodolfo Carlos Rivas Rea
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DATE OF PANEL DECISION 2022-03-15

Publish the Decision
