Decision for dispute CAC-UDRP-101856

Case number	CAC-UDRP-101856
Time of filing	2018-02-01 09:57:06
Domain names	BANQUEENI.COM

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Eni S.p.A.

Complainant representative

Organization	desimone & partners

Respondent

Name	AHMED CISSE

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

The reputation of the ENI trademarks is self-evident and proved by the following documents:

Evidence enclosed:

- Wikipedia on Eni;
- CNN Money.com on “GLOBAL 500 of the world largest corporations”- Eni rank in 2011 is 23;
- on www.arabianoiland gas.com the top10 Oil Companies are listed. Eni has the 9th place;
- Frost & Sullivan(a global team of industry expert) analysis on ENI
- The world’s Largest Companies by www.askdeb.com. Eni ranks 18th;
- Newspaper Adverts on ENI;

Furthermore Eni and ENI formative marks are trademarks extensively registered around the world in more than 100 countries with more than 1000 trademarks.

FACTUAL BACKGROUND

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

1953 - Eni (Ente Nazionale Idrocarburi) is established; Enrico Mattei is the first Chairman

From being a public corporation Eni is now transformed into a joint stock company. Most of Eni's Share capital is put on the market in four successive public issues.

1999 - Eni-Gazprom agreement for the Blue Stream Project: this is a gas pipeline which will link the russian coast on the Black Sea to Turkey and involves laying gasline beneath the Black Sea at water depths of up to 2,100 meters.

ENI trademarks are registered hundreds of marks in the most important jurisdictions all over the world. This proceeding is based on the US Jurisdiction given that both the registrars are US companies. However the Complainant has enclosed Trademark Certificates from the USPTO, EUIPO, WIPO International Registrations and OAPI. The interest and the exposure to the net is well proven by the enclosed list of ENI formative domain names, more than one hundred.

The Respondent

On the contrary, the Respondent seems to be a physical person from Ivory Coast. He has registered the disputed domain names that do not lead to any active page but also they seem to be connected to a third domain name <BANQUE-ENI.COM>. In that third domain name the e-mail is ahmedcisse@gmail.com registered by Ms. AWA CISSE (from Complainant's investigation apparently they are brother and sister) in which an active and well organized phishing website is actually started. On this website it is very easy to be misled and led to think to be entering the proper and real Eni BANK site. But in reality, it is just a fake and a very dangerous one. This phishing activity is particular malicious and it is able to mislead and damage consumers when they open the said domain name.

Our Client has already filed a criminal petition by the Belgium Authorities.

The disputed domain names are in the name of Ahmed CISSE but, as we stated, the domain name in the name of AWA CISSE has the identical domain address as the disputed domain names: cisseahmed10@gmail.com.

Therefore it seems that the Respondent controls all the domain names both dormient and the active one.

It seems therefore that the domain name on which phishing activities have been carried out are all indirectly related to the Respondent who can via his e-mail control all the communications concerning the two disputed domain names and above all the communications related to the phishing activities of the third domain name <BANQUE-ENI.COM>.

The Complainant has filed a proper criminal petition before the Competent authorities in Belgium where BANQUE ENI has its headquarters which is herewith enclosed. We of course expect that the Authority bring to stop those illicit contents as soon as possible. However the two disputed domain names are not directly involved in the criminal proceeding but the Respondent will be involved given that its mail address is indicated in relation to <BANQUE-ENI.COM>.

On January 24, 2018 we sent our warning letter in order to request the immediate assignment free of cost of the two disputed domain names but no reply was ever received from the Registrant but only from the Registrars.

The disputed domain names are confusingly similar to the ENI trademarks in which the Complainant has earlier rights. In fact BANQUEENI.COM and ENIBANQUE.COM completely reproduced the Complainant's famous trademarks ENI with a descriptive addition of one of the sectors in which the Complainant is now active: the Banking sector. (Policy, Paragraph 4(a) (i); Rules, Paragraphs 3(b) (viii),(b)(ix)(1)).

In assessing confusingly similarity the top level suffix .com has to be disregarded.

Furthermore also the addition of generic descriptive terms to a trademark in a domain name such as BANQUE, is insufficient

to avoid a finding of confusing similarities. In many WIPO cases panels have usually found the distinctive part of the trademark to constitute the dominant or principal component of the domain name (see WIPO cases D2001-0110 on “ansellcondoms.com”; D2005-0587 on “naturelle.com; D2006-1307 on “ebaymoving.com”; D2007-0768 on “playboyturkey.com).

Therefore the comparison has to be made between BANQUEENI and ENIBANQUE on one side and ENI and all the other trademarks of the relevant trademark families of ENI. ENI owns more than 2000 marks around the world.

The Complainant claims that the Respondent has no right or legitimate interests in respect of the disputed domain names in which a phishing website is presently active. This is not considered as a legitimate interest.

The Respondent has no registered trademark rights in the words ENI and there is no evidence at all that the Respondent is commonly known by the disputed domain names. On the contrary, as herein already mentioned, the Respondent has set up two websites that take advantage of the reputation and long standing history of the two trademarks of ENI also with regard to motor races.

Eni S.p.A is a worldwide energy Group that is active in the major markets around the world: USA, European Community and Internationally with more than 40 controlled companies and hundreds of points of sale in the fuels and lubricants sector. Eni is active in around 70 countries with a staff of 73.000 employees.

The disputed domain names have been registered by the Respondent in bad faith.

As above stated, ahmedcisse@gmail.com is the e-mail address of the disputed domain names as well as the domain name linked to the website in which a fishing activities have been carried out.

Phishing activities as that one carried out in the parallel domain <BANQUE-ENI.COM> owned by Awa is a serious illicit, it is the highest proof of bad faith and as it is shown they have been created a copycut site representing her, not as a football player of Juventus as it is show in the Respondent Facebook, but as a real page of Banque Eni.

As to bad faith registration, when registering the disputed domain names, the Respondent was not only necessarily aware of the Complainant’s well-known business and widespread reputation in its ENI but have registered the disputed domain names in order to implement and put in practice the Banque Eni project to take advantage by the real activity by Eni related to a real bank in Belgium called Banque Eni. The disputed domain names served as weapons to force Eni to do business with the Respondent or to find consumers.

The disputed domain names are so obviously connected with the Complainant’s trademarks and identical bank established in Belgium and its services that their very use by someone with no connection with the Complainant suggests "opportunistic bad faith" (WIPO Case No. D2000-0226, Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net - Annex 36, WIPO Case No. D2000-0163, Veuve Cliquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co., net , WIPO Case No. D2001-0781, Fortuneo v. Johann Guinebert.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSES HAS BEEN FILED.

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).

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).

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).

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

1. The three essential issues under the paragraph 4(a) of the UDRP Policy are whether:

i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

ii. the Respondent has no rights or legitimate interests with respect to the disputed domain name; and

iii. the disputed domain name has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Respondent did not provide the Panel with any documents or statements. The Panel also visited all available websites and public information concerning the disputed domain names, namely the WHOIS databases.

3. The UDRP Rules clearly say in its Article 3 that any person or entity may initiate an administrative proceeding by submitting a complaint in accordance with the Policy and these Rules.

4. The Panel therefore came to the following conclusions:

a) The Complainant has clearly proven that it is a long standing and successful company in the business environment, namely energy/petrol. It is clear that its trademarks and domain names “ENI” are well-known.

The Complainant states that the disputed domain names are confusingly similar to its trademark. Indeed, the trademark is incorporated in its entirety in the disputed domain names.

The disputed domain names are identical or confusingly similar.

b) It has to be stressed that it was proven that there are no fair rights of the Respondent to the disputed domain names. The Respondent is not generally known by the disputed domain names, and have not acquired any trademark or service mark rights in the name or mark.

The Panel therefore finds that the Respondent does not have rights or legitimate interest with respect to the disputed domain names.

c) The disputed domain names were registered with an intention to attract customers of another well-known domain name/registered trademark holder. Therefore there cannot be seen any legitimate interest of the Respondent.

It is clear that the Complainant's trademark and website were used by the Complainant long time before the disputed domain names were registered and used. It is therefore concluded that the disputed domain names were registered with an intention to attract customers of another well-known domain name/registered trademark holder.

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

For the reasons stated above, it is the decision of this Panel that the Complainant has satisfied all three elements of paragraph 4(a) of the UDRP Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **BANQUEENI.COM**: Transferred
2. **ENIBANQUE.COM**: Transferred

PANELLISTS

Name	**Dr. Vít Horáček**

DATE OF PANEL DECISION 2018-03-09

Publish the Decision