

## Decision for dispute CAC-UDRP-105803

Case number	CAC-UDRP-105803
Time of filing	2023-10-16 11:35:19
Domain names	eononlineeonoffice.com

### Case administrator

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

Organization	E.ON SE
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### Complainant representative

Organization	ARISTOS IP Partnerschaft von Rechtsanwälten mbB
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### Respondent

Organization	Fundacion Comercio Electronico
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#### 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 name.

#### IDENTIFICATION OF RIGHTS

The Complainant owns the following trademarks:

- EUTM no. 006296529 “e.on”, registered on June 27, 2008, for numerous goods and services in classes 07, 36, 37, and 40;
- EUTM 002361558 “E.ON”, registered on December 19, 2002, for numerous services in classes 35, 39, and 40;
- German trademark registration no. 39982704, registered on May 22, 2000, for various goods and services in classes 04, 35, 36, 37, 38, and 39.

The Complainant also owns, among other domain names, the domain name <eon.com> which the Complainant uses for its main corporate website.

The Respondent has registered the disputed domain name on March 14, 2023, so that the Complainant’s trademark registrations clearly predate the disputed domain names registration date.

#### FACTUAL BACKGROUND

The Complainant is a European electric utility company based in Essen, Germany. Its E.ON Group of companies is one of the world's largest investor-owned electric utility service providers, and one of Europe's largest operators of energy networks and energy

infrastructure with approximately 50 million customers in more than 30 countries. The Complainant's company under the "E.ON" brand was created in 2000 through the merger of two existing German utility companies, VEBA and VIAG.

The disputed domain name <eononlineeonoffice.com> was registered on March 14, 2023 using a Privacy Service and lands to a parking page with links comparing electricity and gas tariffs i.e. in the Complainant's field of business.

The Complainant and the Respondent have never had any previous business or other relationships, nor has the Complainant ever granted the Respondent any rights to use the E.ON trademark in any way at all. This includes use in the disputed domain name and on the website.

The Complainant has not found that the Respondent is commonly known by the disputed domain name or has any other legitimate interest in that name. A Google search for "eon online" pointed straight to the Complainant and its business activities.

According to the Complainant, the Respondent should have performed a similar search before registering the disputed domain name. It would have been obvious that the Complainant is the owner of numerous trademarks and domains in many countries around the world.

The Respondent did not file any response to the Complaint.

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#### PARTIES CONTENTIONS

##### COMPLAINANT:

The Complainant contends that the disputed domain name <eononlineeonoffice.com> is confusingly similar to the Complainant's well-known and distinctive trademark "E.ON". The addition of the generic terms "online" and "office" does not alter the overall impression of the domain as being closely linked to the Complainant's company name and trademark E.ON. The omitted dot between the trademark elements "E" and "ON" is regarded as irrelevant because this separating dot is usually not pronounced and is not dominant or distinctive in the Complainant's trademark "E.ON". Moreover, the Complainant itself also does not use this separating dot, including the technical reason for that, in some of its own domain names such as <eon.com>.

The Complainant further contends that the Respondent does not have any rights or legitimate interest in the disputed domain name. The Complainant and the Respondent never had any business or other relationships, and the Complainant has never granted the Respondent any rights to use the "E.ON" trademark (or the disputed domain name) in any way. The Complainant has not found any indications that the Respondent is commonly known by the disputed domain name or has any other legitimate interest in that name.

The Complainant further argues that a Google search performed by the Complainant for "eon online" pointed straight to the Complainant and its business activities. The Complainant argues that the Respondent should have performed a similar search before registering the disputed domain name, as it would then have been obvious that the Complainant is the owner of numerous associated trademarks and domains in many countries around the world. Furthermore, the disputed domain name resolved in a parking page with pay-per-click links comparing electricity and gas tariffs i.e. in the Complainant's field of business.

The Complainant finally argues that the Respondent has used an identity protection service to conceal its identity when registering the disputed domain name.

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 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).

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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 name (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 name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

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#### 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.

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#### PRINCIPAL REASONS FOR THE DECISION

First, the Panel finds that the disputed domain name <eononlineeonoffice.com> is confusingly similar to the Complainant's E.ON, because it incorporates (twice) the mark in its entirety, omitting only the dot, and merely adds the generic words "office" and "online". The redundancy of the expression composed with the E.ON trademarks i.e. E.ON ONLINE E.ON OFFICE would certainly lead the consumer to a specific online branch of the Complainant's office. The omitted dot between the trademark elements "E" and "ON" do nothing to distinguish the disputed domain name from the mark.

The inconsequential top-level domain ".com" may be ignored. indeed, numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark.

Therefore, the Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Second, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor is the Respondent commonly known under the disputed domain name, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain. The Respondent has not been licensed or otherwise authorized to use the Complainant's E.ON trademark, either as a domain name or in any other way. Also, there is no reason to believe that the Respondent's name somehow corresponds with the disputed domain name and the Respondent does not appear to have any trademark rights associated with the terms "E.ON" on its own. Finally, the Complainant has demonstrated that the disputed domain name resolves, at the time of the Complaint, in a parking page with pay-per-click links comparing electricity and gas tariffs i.e. in the Complainant's field of business. Such use of the disputed domain name, obviously in a fraudulent manner, neither qualifies as a bona fide nor as a legitimate noncommercial or fair use under the UDRP and may not of itself confer rights or legitimate interests in the disputed domain name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that, therefore, the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

Third, the Panel holds that the disputed domain name was registered and is being used by the Respondent in bad faith. It is obvious from the circumstances to this case that the Respondent was well aware of the Complainant's rights in the E.ON trademark when registering the disputed domain name, and that the latter is directly targeting such trademark. Indeed, it leaves no doubts that the Respondent, by registering and making use of the disputed domain name, had the intention to somehow unjustifiably profit from the undisputed reputation attached to the Complainant's E.ON trademark and related website(s). Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the larger meaning of paragraph 4(b)(iv) of the Policy.

This finding, considering that the Panel may conduct summary searches, also takes into consideration that the Respondent has been involved in almost 700, successfully conducted by complainants, arbitration proceedings from mid-2018 till now. This pattern of conduct does not need to be more developed to appreciate a bad faith pattern of conduct.

Therefore, the Complainant has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

**Accepted**

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

1. **eononlineeonoffice.com**: Transferred
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#### PANELLISTS

Name	David-Irving Tayer
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DATE OF PANEL DECISION 2023-11-19

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