Decision for dispute CAC-UDRP-106641

Case number	**CAC-UDRP-106641**
Time of filing	**2024-07-03 09:54:41**
Domain names	**eon-innovations.com**

Case administrator

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

Complainant

Organization	**E.ON SE**

Complainant representative

Organization	**Lubberger Lehment Rechtsanwälte Partnerschaft mbB**

Respondent

Name	**John Reeves**

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 a number of trademarks, inter alia the following trademark registrations:

- EUTM No. 002361558 E.ON, registered on 19/12/2002 in classes 35, 39 and 40;
- EUTM No. 002362416 e.on, registered on 19/12/2002 in classes 35, 39 and 40; and
- EUTM No. 006296529 e.on, registered on 27/06/2008 in classes 7, 36, 37 and 40; and
- EUTM No. 0876364 e.on, registered on 09/09/2005 in classes 4, 35, 39, 40.

All trademarks listed above are – by virtue of long and intensive use – well-known to significant parts of the public in the EU and beyond. They are associated exclusively with the Complainant. In addition, the sign “E.ON” also enjoys protection as a company name.

FACTUAL BACKGROUND

E.ON Group is one of Europe's largest operators of energy networks and energy infrastructure and a provider of innovative customer solutions for approx. 48 million customers. The Complainant, E.ON SE, is a member of Euro Stoxx 50 stock market index, DAX stock index and of the Dow Jones Global Titans 50 index.

The Respondent appears to be an individual domiciled in Newham, United Kingdom.

The disputed domain name was registered by the Respondent on 4 June 2024.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
No administratively compliant Response has been filed.

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).

The Complainant claims rights in the E.ON mark through its international trademark registrations. By virtue of its trademark registrations, the Complainant has proved that it has rights in the mark under paragraph 4(a) of the Policy. See Avast Software s. r. o. v Milen Radumilo, 102384, (CAC 2019-03-12).

The Complainant further contents that the disputed domain name reproduces the E.ON trademark in its entirety and only difference is omitting the dot. It is well-established by judicial jurisprudence and UDPR panel decisions that the addition of a purely generic element to a trademark in a domain name – such as “innovations” in the present case is irrelevant in assessing confusing similarity or identity under paragraph 4(a)(i) of the Policy. Further, also the TLD “.com” is to be ignored for the purpose of assessing the confusing similarity due to its technical function.

By doing a side-by-side comparison, the Panel agrees that the disputed domain name is confusingly similar to Complainant's trademark, see Les Laboratoires Servier v. James Andrew, 105634 (CAC 2023-08-19) ("The Panel accepts that the prominent part of the disputed domain name is identical to Complainant's trademark SERVIER, and the hypen "-" and the “.com” generic top-level domain (“gTLD”) are irrelevant when establishing whether or not a mark is identical or confusingly similar for the purposes of paragraph 4(a)(i) of the Policy, see CALZATURIFICIO BUTTERO SRL v YANG CHAO WEI, 103520 (CAC 2021-02-23).")

For the foregoing reasons, the Panel finds the Complainant has satisfied 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 name (within the meaning of paragraph 4(a)(ii) of the Policy). More specifically, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

The Complainant submits that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name. On the contrary, the Respondent uses the disputed domain name to operate a fake website that appears, by using the Complainant’s trademarks, as if was operated by the Complainant. Customers and persons interested in investing in a sustainable bond established by a well-known company are directed to this website to submit their personal data. For fake shops and all other forms of fraud and illegal activity, it is well established that the use of a domain name can never confer rights or legitimate interests on a respondent.

The Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. The burden of proof has been shifted to the Respondent to prove that it has right or legitimate interests to the disputed domain name. However, the Respondent has not submitted a compliant response to rebut the assertions within the required period of time.

For the foregoing reasons, the Panel finds the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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).

The Complainant reiterates that the disputed domain name is identical to the Complainant's well-known trademark. The Complainant further claims that the website revolved by the disputed domain name intentionally creates the impression of an official E.ON SE page, which is prove that the Respondent is aware of the Complainant and their trademarks. The disputed domain name has been registered only recently in 2024. On top of all that, the Respondent is concealing its identity on the websites operated under the disputed domain name which do not contain any imprint or other information, and uses a privacy service for the Whois.

Having reviewed the screenshots provided by the Complainant and without receiving an administrative compliant response, the Panel is of the view that the Respondent has actual knowledge of Complainant's E.ON trademark during the registration of the disputed domain name and the use of the disputed domain name also constitutes bad faith due to the phishing nature of the website resolved by the disputed domain name mimicking the official website of the Complainant. See Klarna Bank AB v. Evgenii Khokhlov, 106598 (CAC 2024-07-23) ("The Respondent has used the global renown of the KLARNA mark to attract and, by impersonating the Complainant, give internet users the false and misleading impression that the disputed domain name is operated by the Complainant. The Respondent has engaged in this deception by, among other things: (a) prominently and repeatedly brandishing the Complainant's KLARNA mark and logo on the resolving site; (b) adopting a similar look and feel (e.g., through its choice of colours) to content found on the Complainant's official sites; and (c) featuring text in the resolving site's footer which identifies the Complainant and therefore falsely reinforces the impression that the Complainant controls it. The Respondent may use details it collects through the site to, for example, interfere with transactions or send phishing correspondence purporting to originate from the Complainant to deceived internet users.").

For the foregoing reasons, the Panel finds the Complainant has satisfied 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

Having established all three elements required under the UDRP Policy, the Panel concludes that the disputed domain name should be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **eon-innovations.com**: Transferred

PANELLISTS

Name	**Mr Paddy TAM**

DATE OF PANEL DECISION 2024-07-28

Publish the Decision