Decision for dispute CAC-UDRP-106294

Case number	CAC-UDRP-106294
Time of filing	2024-06-24 09:38:09
Domain names	innogy-stiftung.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	E.ON SE
Organization	Innogy SE

Complainant representative

Organization	ARISTOS IP Partnerschaft von Rechtsanwälten mbB

Respondent

Organization	Edoms LLC

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

EU Trademark Registration No. 001753649 INNOGY registered on 21 December 2001 in relation to various goods and services in classes 1, 4, 7, 9, 11, 16, 19, 36, 37, 38, 39, 40, 41, and 42.

FACTUAL BACKGROUND

The disputed domain consists of the words INNOGY and STIFTUNG, separated by a hyphen, followed the .com gTLD.

As noted above, INNOGY is a registered trademark of the Complainant. Whilst the word STIFTUNG translates from German to English as the generic term FOUNDATION. As mentioned below, both words were incorporated in the Complainant's former company name.

The Complainant in this matter is a well known energy company founded in 2016. In 2020 it integrated with E.ON Group, which is one of Europe's largest operations of energy networks and energy infrastructure.

Before its integration into the E.ON Group, Innogy SE operated a non-profit corporate foundation under the name and formerly

registered as "Innogy Stiftung für Energie und Gesellschaft gGmbH" in the commercial register. In September 2020, following Innogy SE's incorporation into the E.ON Group, the foundation underwent a name change to "E.ON Stiftung GmbH". Regardless of the name change, the INNOGY trademark and company name have been used intensively and for a substantial period of time by the Complainant Innogy SE in connection with the non profit foundation.

The Respondent registered the disputed domain name on 16 April 2022. The disputed domain name redirects internet users to an active website which displays in its content the Complainant's above mentioned former company name, the date of the Complainant's establishment and a logo that the Complainant once used before rebranding. It is contains a hyperlink directing web users to a website operated by E.ON Group.

All such content appearing the Respondent's website appears without the authorization of the Complainant.

PARTIES CONTENTIONS

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).

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).

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).

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

Paragraph (4)(a) of the Policy lists three elements that the Complainant must prove to merit a finding that the disputed domain name registered by the Respondent be transferred to the Complainant:

1) the disputed domain name is identical or confusingly similar to a trademark or service mark ("mark") in which the Complainant has rights; and
2) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
3) the disputed domain name has been registered and is being used in bad faith.

The Panel is satisfied that the Complainant has satisfied all three elements for the principal reasons set out below.

RIGHTS IN AN IDENTICAL OR CONFUSINGLY SIMILAR TRADEMARK

As mentioned above the Complainant asserts has a registration for the trademark “INNOGY” that predates the registration date of the disputed domain name by almost two decades.

To satisfy paragraph 4(a)(i) of the Policy it is enough that the Panel is satisfied that the Complainant has registered rights in a trademark that predates the registration of the disputed domain name in a single jurisdiction (even if that single jurisdiction is not one in which the Respondent resides or operates) (Koninklijke KPN N.V. v. Telepathy, Inc D2001-0217 (WIPO 7 May 2001); see also

WIPO Case Nos. D2012 0141 and D2011-1436). The Complainant has clearly satisfied such in relation to the trademark “INNOGY”.

The next question is whether the disputed domain name is confusingly similar to the “INNOGY” trademark.

The Panel disregards the gTLD suffix ".com" for the purpose of this comparison. It is of no brand significance and it is likely to be totally ignored by web users. Further, the word STIFTUNG is purely descriptive and of no brand significance.

Such web users are likely to focus entirely on the only distinctive element in the disputed domain name, being the INNOGY element.

As the only distinctive element of any brand significance in the disputed domain name is identical to the INNOGY trademark it readily follows that the disputed domain name is confusingly similar to the INNOGY trademark.

NO RIGHTS OR LEGITIMATE INTERESTS

The Respondent's name has been provided as "Edoms LLC (Gergana Raycheva)". This name bears no resemblance to "INNOGY-STIFTUNG". Further, redirecting web users to a website that, without authorisation, contains the Complainant's former name and logo does not indicate any right or legitimate interest in the disputed domain name on the part of the Respondent.

The Respondent has no rights or interests in the disputed domain name.

BAD FAITH

As can be seen above the Respondent has redirected internet users to a website that displays in its content the Complainant's above mentioned former company name, the date of the Complainant's establishment, a logo that the Complainant once used before rebranding, and a hyperlink to the E.ON Group's website. The combined effect of this content is that the Respondent's website appears to a web user as a website operated by the Complainant. It appears to mimic the Complainant.

The existence of such website content makes it entirely unforeseeable that the Respondent could have registered the strikingly similar disputed domain name without knowledge of the Complainant's rights. Rather, such content makes it clear that the Respondent's very purpose for registering the disputed domain name was to mimic the Complainant and misled internet users into believing the Respondent's website was operated by the Complainant.

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

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **innogy-stiftung.com**: Transferred

PANELLISTS

Name	**Andrew Sykes**

DATE OF PANEL DECISION 2024-07-30

Publish the Decision