Decision for dispute CAC-UDRP-106652

Case number	CAC-UDRP-106652
Time of filing	2024-07-03 09:53:29
Domain names	de-eon.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	Anthony Amaechi Gregoire

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:

EU word trademark “E.ON”, No. 002361558, registered on 19/12/2002;

EU word trademark “e.on”, No. 002362416 registered on 19/12/2002;

EU word trademark “e.on”, No. 006296529 registered on 27/06/2008;

and the IR figurative trademark “e.on”, No. 0876364 registered on 09/09/2005.

The sign “E.ON” is also used as a company name.

FACTUAL BACKGROUND

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

The Complainant is an energy group founded in Germany that has established itself as one of the largest operators of energy networks and energy infrastructure in Europe and a provider for around 48 million customers. The Complainant employs around 74,000 people and recorded a turnover of 93 billion euros in 2023.

The Complainant uses the sign ''e.on'' and its “e.on” trademarks for its services and as a company name.

The disputed domain name <de-eon.com> was registered in the name of the Respondent on May 22, 2024 and links to an inactive website.

PARTIES CONTENTIONS

COMPLAINANT'S CONTENTIONS

The Complainant states that the disputed domain name is identical to the trademark “e.on''/”E.ON”. ''e.on'' is considered as well-known and market-established energy operator. Neither the addition of the generic element "de" nor the presence of the generic top-level domain (TLD) ".com" as part of the disputed domain name preclude similarity.

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name since the Respondent is using the domain name for an inactive website. The domain name is also used to approach potential customers via phishing e-mails and to create the impression of an official E.ON e-mail account.

Furthermore, the disputed domain name has been registered and is being used in bad faith. The domain name is identical to the well-known trademarks, which means the Respondent is aware of the company “E.ON” and their trademarks.

RESPONDENT'S CONTENTIONS:

The Respondent has not filed a response.

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

As the Respondent did not file an administratively compliant Response, pursuant to paragraph 14 (b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate. Thus, the Panel accepts the contentions of the Complainant as admitted by the Respondent. Taking the statements and documents submitted by the Complainant under careful consideration, the Panel concludes, that the Complainant has established all the elements entitling it to claim the transfer of the disputed domain name.

(A) The disputed domain name is confusingly similar to the trademarks of the Complainant.

The Complainant has, to the satisfaction of the Panel, shown that it has valid rights for the multiple trademarks ‘‘e.on”/”EON”’.

The disputed domain name <de-eon.com> includes the Complainant's trade mark ‘‘e.on‘‘ in its entirety.

The omitting of the dot between the letter ‘‘e’’ and the term ‘‘on’’, the addition of the term ‘‘de’’ (in reference to the abbreviation of ‘‘Deutschland’’, the German translation for Germany) as well as the TLD suffix ‘‘.COM” are not sufficient to invalidate the finding that the disputed domain name is confusingly similar to the Complainant's trademark and do not change the overall impression of the domain name as being associated with the Complainant's trademark. Internet users may be wrongly led to believe that the disputed domain name is directly related to the Complainant.

(B) The Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of the Policy.

The Complainant has established a prima facie proof that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to use its trademark in a domain name.

Further, the domain name does not correspond to the name of the Respondent nor is he commonly known as “E.ON” or “e.on” prior to or after the registration of the disputed domain name. It is therefore not apparent that the website is to be used for bona fide reasons.

Moreover, the disputed domain name resolves to an inactive page. It confirms the Complainant's contentions that the Respondent has no demonstrable plan to use the disputed domain name. It demonstrates a lack of legitimate interest in respect of the disputed domain name.

Summarised, there is no evidence for a use of the disputed domain name for any bona fide offer of goods or services or a legitimate non-commercial or fair use.

(C) The disputed domain name has been registered and is being used in bad faith within the meaning of the policy.

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name to have been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

The Complainant’s trademark “e.on” is highly distinctive and well-established and has already been well known at the time, the Respondent registered the disputed domain name. Given the distinctiveness of the Complainant's trademarks and reputation, it can be concluded that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademarks.

Furthermore, all the results of a web search of the terms “e.on” refer to the Complainant.

The structure of the disputed domain name (e.g. the separation between "de" and "eon") shows that the Respondent registered it with the Complainant and its trademarks in mind. This shows the Respondent's clear intention to create an association and thus a likelihood of confusion with the Complainant's trademark in the mind of internet users.

In addition, the domain name was used for fraudulent e-mail communication. Under the address auftrag@de-eon.com/order@de-eon.com and the name “E.ON Group”, e-mails were sent from an account linked to the disputed domain name. The e-mails sent were phishing e-mails in which the sender offered IT equipment and gave the impression that it was a legitimate communication from the Complainant, i.e. its employees or its managing director, although this is not the case.

According to 4 (b) (iv) of the Policy, such a likelihood of confusion is a circumstance in which bad faith registration and use can be assumed.

The fact that the disputed domain name may currently be held passively and is not used for an active website does not change this result. If this fact were to support the Respondent, trademark owners would not be able to enforce their trademark rights in a situation such as the one at hand. The Panel, at least in this kind of cases, regards the passive holding of a domain name in dispute as use of such domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

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

PANELLISTS

Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2024-08-08

Publish the Decision