Decision for dispute CAC-UDRP-106457

Case number	CAC-UDRP-106457
Time of filing	2024-07-15 09:05:42
Domain names	eonenergy.app

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	Arturo Gomez

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 (the "Domain Name").

IDENTIFICATION OF RIGHTS

The Complainant is the owner of various registered trade marks that comprise or incorporate the term "e.on". They include:

1. European Union trade mark no. 002361558 for "E.ON" as a word mark registered on 19 December 2002 in classes 35, 39 and 40;
2. European Union trade mark no. 002362416 for "e.on" as a word mark registered on 19 December 2002 in classes 35, 39 and 40; and
3. European Union trade mark no. 06296529 for "e.on" as a word mark registered on 27/06/2008 in classes 07, 36, 37 and 40.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT

The Complainant is part of the E.ON Group, which 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. It is a member of Euro Stoxx 50 stock market index, DAX stock index and of the Dow Jones Global Titans 50 index.

The Domain Name was registered on 6 January 2021. The Domain Name resolves to a website operated by a person or an entity under the names “Eon” and “Eon Energy”. On this website, the operator is presenting itself as an alleged energy supplier that “buys and sells energy” (“Compramos y vendemos energía”) and allegedly engages in other products such as certificate trading. The website is using the slogan “Empowering the world” in a prominent way in several places.

That website operating from the Domain Name does not contain any “imprint” disclosing the legal entity that is operating that website.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the 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 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 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 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

The Complainant has demonstrated that it has registered trade mark rights in the term E.ON and the Domain Name can most sensibly be read as the term “Eon” combined with the word “energy” and the ".app" new gTLD. The Complainant’s trade mark is clearly recognisable in the Domain Name, particularly when one takes into account that so far as domain names are concerned a “.” cannot be used as a part of any level of a domain name since it is technically used to separate different levels of a domain name (see, for example E.ON SE v. Jack Li, CAC-UDRP-106086). This is sufficient for a finding of confusing similarity under the Policy (see section 1.7 of the WIPO Overview 3.0). The Complainant has, therefore, satisfied the requirements of paragraph 4(a)(i) of the Policy.

The Complainant contends that the Domain Name was chosen in order to “create an impression of an association with the Complainant”. The Panel accepts in the absence of any argument of evidence to the contrary that this is the case. Given the extent of the Complainant’s business activities, the sector in which the Respondent purports to operate and the use of the word “energy” as part of the Domain Name, the Panel is satisfied that the Respondent is more likely than not to have been aware of the Complainant’s business before registering the Domain Name. If this is so, the only sensible conclusion that can be reached is that the Domain Name was chosen with the intention of taking advantage of the association and potential confusion between the Domain Name and the Complainant’s mark and business, in order to draw internet users to the website operating from the Domain Name.

There is no right or legitimate interest in registering and holding a domain name with the intention of taking advantage of an association and potential confusion with another’s trade mark to further one’s own business, and such activity provides positive

evidence that not such right or legitimate interest exists. Further, such activity involves registration and use is in bad faith, falling within the scope of the example of circumstances evidencing bad faith registration and use set out at paragraph 4(b)(iv) of the Policy.

The Complainant has, therefore, satisfied the requirements of paragraphs 4(a)(ii) and (iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **eonenergy.app**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2024-08-09

Publish the Decision