Decision for dispute CAC-UDRP-106946

Case number	CAC-UDRP-106946
Time of filing	2024-10-17 09:11:20
Domain names	eonenergy.lat

Case administrator

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

Complainant

Organization	E.ON SE

Complainant representative

Organization	Lubberger Lehment Rechtsanwälte Partnerschaft mbB

Respondent

Organization	Domain Administrator

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 is the owner of, inter alia:

- EUTM 002361558 E.ON, registered on December 19, 2002 in for services in classes 35, 39 and 40;
- EUTM 002362416 e.on, registered on December 19, 2002 in for services in classes 35, 39 and 40; and
- EUTM 006296529 e.on, registered on June 27, 2008 for goods and services in classes 7, 36, 37 and 40.

FACTUAL BACKGROUND

The Complainant is an operators of energy networks and energy infrastructure which provides its services to approximately 48 million customers. The Complainant is listed on the Euro Stoxx 50 stock market index, DAX stock index and the Dow Jones Global Titans 50 index.

The disputed domain name was registered on September 28, 2024 and resolves to a website which hosts a log-in page with the Complainant's "E.ON" logo, which copies the look and feel of an official webpage of the Complainant and uses the Complainant's E.ON trademarks, and undisputedly intends to create the impression of an official website of the Complainant's group.

According to the Complainant the disputed domain name is, in legal terms, identical to the Complainant's E.ON trademark, which the disputed domain name reproduces in its entirety, only omitting the dot. The Complainant alleges that the addition of the term "energy" is a purely generic element which should be ignored, just as the the top level domain (TLD) ".lat" is to be ignored for the purpose of assessing the confusing similarity, because it only plays a technical function.

The Complainant alleges that the Respondent has no rights or legitimate use in the disputed domain name because it is not making a legitimate non-commercial or fair use of the disputed domain name but rather uses the disputed domain name to operate a fake website that appears, by using the Complainant's E.ON trademark, as if it was operated by the Complainant. Customers of the Complainant will be directed to this website in order to enter their data, assuming that they are logging into the Complainant's portal. According to the Complainant it is well established that the use of a domain name can never confer rights or legitimate interests on a respondent for fake shops and all other forms of fraud and illegal activity.

The Complainant further alleges that the Respondent has registered and is using the disputed domain name in bad faith as the disputed domain name is identical to the Complainant's well-known E.ON trademark, and resolves to a website which intentionally creates the impression of being an official webpage of the Complainant, which the Complainant considers proof that the Respondent is aware of the Complainant and its E.ON trademarks. The Respondent is also concealing its identity on the website operated under the disputed domain which do not contain any imprint or other information, and uses a privacy service for the Whois.

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

1. The Panel finds that the disputed domain name is confusingly similar to the Complainant's E.ON trademarks which were registered prior to the registration of the disputed domain name. The disputed domain name wholly incorporates the Complainant's E.ON trademark except the dot between the "E" and "ON" which cannot be represented in a domain name. The fact that the term "energy" is added does not eliminate the similarity between the Complainant's trademarks and the disputed domain name, and in fact may even enhance the similarity between the Complainant's trademarks and the disputed domain name in view of the Complainant's activities. According to par. 1.11 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition the "applicable Top Level Domain ("TLD") in a domain name (e.g., ".com", ".club", ".nyc") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test".

2. The Panel finds that the Complainant has successfully presented evidence that the Respondent has used the disputed domain name to resolve to a website with a login page that uses the Complainant's E.ON trademark and the look and feel of the Complainant's web page. In the absence of a convincing explanation to the contrary, the Panel considers it most likely that the disputed domain name is being used for fraudulent purposes that could never result in the Respondent's right or legitimate interest in respect to the disputed domain name.
3. In the absence of a Response, the Panel infers from the fact that the disputed domain name resolves to a website which uses the Complainant's well-known E.ON trademark (e.g., CAC-UDRP-106086) and mimics the look and feel of the Complainant's website, that the Respondent must have had the Complainant's E.ON trademark in mind when it registered the disputed domain name, which was therefore registered in bad faith. Further, the Panel is satisfied that the Respondent's use of the disputed domain name is in bad faith as the disputed domain name resolves to a website which, as found sub 2 above, is most likely used for fraudulent purposes.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **eonenergy.lat**: Transferred

PANELLISTS

Name	**Alfred Meijboom**

DATE OF PANEL DECISION 2024-11-15

Publish the Decision