

Decision for dispute CAC-UDRP-107068

Case number **CAC-UDRP-107068**

Time of filing **2024-11-22 09:40:55**

Domain names **se-eon.com**

Case administrator

Name **Olga Dvořáková (Case admin)**

Complainant

Organization **E.ON SE**

Complainant representative

Organization **Dr Julian Erfurth (Lubberger Lehment Rechtsanwälte Partnerschaft mbB)**

Respondent

Name **Claude Robert Cecius**

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 the following word mark registrations:

EUTM 002361558 E.ON, registered on December 19, 2002 in classes 35, 39 and 40;

EUTM 002362416 e.on, registered on December 19, 2002 in classes 35, 39 and 40; and

EUTM 006296529 e.on, registered on June 27, 2008 in classes 07, 36, 37 and 40;

and the figurative mark EUTM 0876364 e.on, registered on September 9, 2005 in classes 4, 35, 39, 40.

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 approximately 48 million customers. The Complainant, E.ON SE, is a member of 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 18, 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, for the following reasons.

The Complainant owns the trademark registrations set out above, all of which, by virtue of long and intensive use, are 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" enjoys protection as a company name.

The Complainant initiated UDRP proceedings against the domain name <de-eon.com> recently after becoming aware that a third party is using this domain name for fraudulent activities, inter alia for placing fake orders in the name of the Complainant under the e-mail address <auftrag@de-eon.com>. The registrar for the domain name <de-eon.com> was Alibaba Cloud Computing. The UDRP ended in a panel decision for transfer (UDRP 106652).

The Complainant has noticed that the fraudulent activities are still ongoing, now using the disputed domain name <se-eon.com>, registered on September 18, 2024, closely after the domain name <de-eon.com> was disabled. Fake orders for solar panels have been placed in the name of the Complainant from the e-mail address <auftrag@se-eon.com>. Further fake e-mails were sent from the address <rechnung@se-eon.com>. This new e-mail has also been sent under the name "E.ON Group" and with an official footer of E.ON SE, including the Complainant's figurative mark. However, the account <se-eon.com> is not an official account of the Complainant and the e-mails are scam or otherwise malicious e-mails.

The disputed domain name <se-eon.com> is identical to the protected sign "E.ON".

The Respondent has no rights or legitimate use in the disputed domain name <se-eon.com>. In particular, the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name. The Respondent is not using the disputed domain name for an active website. The disputed domain name is held passively, blocking it from use by the Complainant. The disputed domain name has only been registered to approach third parties under an e-mail address that creates the impression of an official E.ON account. 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. These principles must apply in the same way for a domain name that has been registered for the sole reason to use e-mail accounts associated with the domain name for fraudulent purposes.

The Respondent has registered and is using the disputed domain name in bad faith. The disputed domain name is identical to the Complainant's well-known trademark. The e-mails <auftrag@se-eon.com> and <rechnung@se-eon.com> intentionally create the impression of an official E.ON e-mail, which is proof that the Respondent is aware of the Complainant and its trademarks. The disputed domain name has been registered only recently in 2024. On top of all that, the Respondent is concealing its identity, by not giving any identity in the Whois and by sending out e-mails in the name of the Complainant.

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 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable."

Paragraph 4(a) of the Policy requires that the Complainant must prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service 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.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. See WIPO Jurisprudential Overview 3.0 at paragraph 4.3; see also *eGalaxy Multimedia Inc. v. ON HOLD By Owner Ready To Expire*, FA 157287 (Forum June 26, 2003) ("Because Complainant did not produce clear evidence to support its subjective allegations [. . .] the Panel finds it appropriate to dismiss the Complaint").

As to the first element, the Complainant has shown that it has rights in the E.ON word and logo marks through registrations with the EUTM. The Panel finds the disputed domain name <se-eon.com> to be confusingly similar to the Complainant's mark because it merely adds the prefix "se-" and omits the dot after the letter "e", which differences do nothing to distinguish the domain name from the mark. The inconsequential top-level domain ".com" may be ignored. The Complainant has established this element.

As to the second element, paragraph 4(c) of the Policy sets out three illustrative circumstances as examples which, if established by the Respondent, shall demonstrate rights to or legitimate interests in a disputed domain name for the purposes of paragraph 4(a)(ii) of the Policy, i.e.

(i) before any notice to the Respondent of the dispute, the use by the Respondent of, or demonstrable preparations to use, the domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services; or

(ii) the Respondent (as an individual, business or other organization) has been commonly known by the disputed domain name, even if the Respondent has acquired no trademark or service mark rights; or

(iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

The Panel notes that the disputed domain name <se-eon.com> was registered by the Respondent on September 18, 2024, long after the Complainant registered its E.ON marks. It does not resolve to an active website. On September 26, 2024, an email from <auftrag@se-eon.com> was sent, purporting to be from the Complainant, displaying the Complainant's logo mark and seeking delivery to an address unrelated to the Complainant. On October 23, 2024, an email from <rechnung@se-eon.com> was sent to a different recipient, purporting to be from the Chief Financial Officer of the Complainant, displaying the Complainant's logo mark and seeking delivery as soon as possible. The email included the statement: "Once the goods have been delivered, please send us the full invoice for immediate processing".

These circumstances, together with the Complainant's assertions, are sufficient to constitute a prima facie showing of absence of rights or legitimate interests in respect of the disputed domain name on the part of the Respondent. The evidentiary burden therefore shifts to the Respondent to show that it does have rights or legitimate interests in the disputed domain name. See *JUUL Labs, Inc. v. Dryx Emerson / KMF Events LTD*, FA1906001849706 (Forum July 17, 2019). The Respondent has made no attempt to do so.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has established this element.

As to the third element, the four illustrative circumstances set out in paragraph 4(b) of the Policy as evidence of the registration and use of a domain name in bad faith for purposes of paragraph 4(a)(iii) are not exclusive.

The circumstances set out above in relation to the second element satisfy the Panel that the Respondent was fully aware of the Complainant's E.ON marks when the Respondent registered the <se-eon.com> domain name and that the Respondent registered and is using the disputed domain name in bad faith for the purpose of impersonating Complainant and fraudulently phishing for goods without paying for them. The Complainant has established this element.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **se-eon.com**: Transferred
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PANELLISTS

Name	Alan Limbury
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DATE OF PANEL DECISION	2024-12-21
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Publish the Decision
