

Decision for dispute CAC-UDRP-105880

Case number	CAC-UDRP-105880
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Time of filing	2023-10-18 11:56:02
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Domain names	eonpower.top, eonpower.xyz, eonpower.club, eonpower.info, eonpower.life
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Case administrator

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

Organization	E.ON SE
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Complainant representative

Organization	Udo PFLEGHAR B.A. (Melbourne) (ARISTOS IP Partnerschaft von Rechtsanwälten mbB)
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Respondent

Name	dashouaibi zhou
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, proprietor of the European Community Trademark 002361558 E.ON, registered on 19 December 2002 in classes 35, 39 and 40. The mark is in effect.

FACTUAL BACKGROUND

The Complainant contends that the E.ON Group is one of Europe's largest operators of energy networks and energy infrastructure and a provider of innovative customer solutions. E.ON SE is a European electric utility company based in Essen, Germany. It is one of the world's largest investor-owned electric utility service providers. The company is included in the Euro Stoxx 50 stock market index, the DAX stock index and a member of the Dow Jones Global Titans 50 index. It operates in over 30 countries and has over 50 million customers. Having been founded in the year 2000, by 2020, E.ON had 78,126 employees and a revenue of € 60.944 billion.

The trademark and company name e.on has been used by the Complainant E.ON SE intensively and for a substantial period of time. It is therefore an established name in the energy market of the European Union, where it enjoys a consolidated position among the leading brands. Both the Complainant's company name and the trademark E.ON are widely recognised, in recent years having been featured among the TOP 50 German Brands (Ranked No. 19 in 2021), and among the World's 50 Most Valuable Utilities Brands (Ranked No. 13 in 2018). E.ON carries out regular brand awareness surveys and these have established an aided brand awareness of the trademark E.ON of more than 80% in several member states of the European Union such as Germany, Sweden, the Czech Republic, Hungary,

and Romania in the time period between November 2017 and June 2020.

The disputed domain names were registered on September 15, 2023 and resolve to parking pages with commercial links to power providers in 4 cases and to commercial links for distribution services in one case.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain names should be transferred to it.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

- (i) The disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) The Respondent has no rights or legitimate interests with respect to the disputed domain names; and
- (iii) The disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for "E.ON".

The disputed domain names are confusingly similar to the E.ON mark of the Complainant since neither the top level domains nor the additions of the descriptive element „power“ are distinctive and can accordingly not be considered as relevant to influence the overall impression of the domain name respectively avoid a highly confusing similarity.

The Panel therefore considers the disputed domain names to be confusingly similar to the trademark E.ON in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights or legitimate interests in the disputed domain names, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain names, since there is no indication that the Respondent is commonly known by the name "E.ON" or „EONPOWER“ or that the Respondent is using the disputed domain names in connection with a bona fide offering of goods or services.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain names.

C. Registered and Used in Bad Faith

The Panel follows the assessment of the panel in the case CAC-UDRP-105129, <eon-ruhrgas.com>: "The Panel accepts the Complainant's submission, supported by evidence, showing that the E.ON brand has a high degree of recognition, has been listed among the 20 most valuable brands in Germany in 2021, and as one of the fifty most valuable utility companies in 2018; and that the E.ON trade mark is well known in numerous European countries as indicated in the Brand Awareness Tracker for 2021." Also, the connection with the element „Power“ descriptive for the business of the Complainant indicates the awareness of the Respondent of the Complainant.

Accordingly, the Respondent must have been aware of the Complainant and its trademarks when registering the disputed domain names. The Complainant has not authorized the Respondent to make use of a designation which is highly similar to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of these particular domain names without the Complainant's authorization.

The circumstances of this case, in particular the advertising links to competitors and other generally related distribution topics furthermore indicate that the Respondent registered and uses the disputed domain names primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain names to have been registered and used in bad faith in accordance with paragraph 4(a)(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. **eonpower.top**: Transferred
2. **eonpower.xyz**: Transferred
3. **eonpower.club**: Transferred
4. **eonpower.info**: Transferred
5. **eonpower.life**: Transferred

PANELLISTS

Name	Dietrich Beier
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DATE OF PANEL DECISION 2023-11-22

Publish the Decision
