

## **ADMINISTRATIVE PANEL DECISION**

**ETHENEA Independent Investors S.A. v. Arman Sahin, Ethenea-Investa AG**  
Case No. D2022-0861

### **1. The Parties**

Complainant is Ethenea Independent Investors S.A., Luxembourg, represented by Trierpatent, Germany.

Respondent is Arman Sahin, Ethenea-Investa AG, Switzerland.

### **2. The Domain Name and Registrar**

The disputed domain name <ethenea-investa.com> (“Domain Name”) is registered with OnlineNic, Inc. d/b/a China-Channel.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 11, 2022. On March 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 15, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on April 5, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on April 5, 2022.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on April 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 26, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 4, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on May 12, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of

Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

#### **4. Factual Background**

Complainant offers financial services in the European Union and other countries under its trademark ETHENEA. Complainant is the holder of trademark registrations for ETHENEA, including European Union Trade Mark registration No. 010411965, ETHENEA (word), filed on October 28, 2011, and registered on March 20, 2012, for goods and services in international Classes 16 and 36.

Complainant is also the owner of the domain name registration <ethenea.com>.

The Domain Name was registered on July 30, 2021, and it leads to a website (the "Website") mimicking that of Complainant and offering financial services, copying, per Complainant, large parts of copyright protected Complainant content of Complainant's website at "www.ethenea.com", Complainant's staff information, special services offers, personal data and company data, information and credentials, without the consent of Complainant. Currently it leads to an inactive website. Lastly, as Complainant demonstrated, no company under Registrant data is registered in Switzerland.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Name.

##### **B. Respondent**

Respondent did not reply to the Complainant's contentions.

#### **6. Discussion and Findings**

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

##### **A. Identical or Confusingly Similar**

The Panel finds that the Domain Name, that incorporates Complainant's ETHENEA mark along with the word "inventa" separated by a hyphen ("-"), is confusingly similar to the ETHENEA trademark of Complainant.

The generic Top-Level Domain ".com" ("gTLD") is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#)).

Complainant has established Policy, paragraph 4(a)(i).

## **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent of the dispute, Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, even if it has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complaint, Respondent was not authorized to register the Domain Name and Respondent has not been commonly known by the Domain Name.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, the Domain Name used to lead to the Website which reproduced, without authorization by Complainant, Complainant's trademark, website content and other details, without any disclaimer of association (or lack thereof) with Complainant. Currently it resolves to an inactive website.

Lastly, the nature of the Domain Name affirms the intention of using the Domain Name to create a likelihood of confusion with Complainant's mark.

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

## **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with

Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith.

Because the ETHENEA mark had been used and registered by Complainant before the Domain Name registration, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Respondent should have known about Complainant's rights, as such knowledge is readily obtainable through a simple browser search and also due to Complainant's nature of business, provided also online (see *Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

Furthermore, the content of the Website gave the impression that it originated from Complainant, prominently displaying the ETHENEA mark and copying Complainant's website content and details, thereby giving the false impression that the Website emanated from Complainant. This further supports registration in bad faith reinforcing the likelihood of confusion, as Internet users are likely to consider the Domain Name is in some way endorsed by or connected with Complainant WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 3.1.4.

The above further indicates that Respondent knew of Complainant and chose the Domain Name with knowledge of Complainant and its industry (*Safepay Malta Limited v. ICS Inc.*, WIPO Case No. [D2015-0403](#)).

Furthermore, Respondent could have conducted a trademark search and should have found Complainant's prior registrations in respect of ETHENEA (*Citrix Online LLC v. Ramalinga Reddy Sanikommu Venkata*, WIPO Case No. [D2012-1338](#)).

As regards bad faith use, the Panel finds that the Domain Name was employed to host the Website which appeared falsely to be that of Complainant. Furthermore, the Domain Name has been operated by intentionally creating a likelihood of confusion with Complainant's trademark and business. This further supports the finding of bad faith use (*Arkema France v. Aaron Blaine, supra*; *Aktiebolaget Electrolux v. Priscilla Quaiotti Passos*, WIPO Case No. [D2011-0388](#) and [WIPO Overview 3.0](#), sections 3.1.4 and 3.2.1).

The Panel also notes also that the non-use of a domain name would not prevent a finding of bad faith under the circumstances of this proceeding (*Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), section 3.3).

Under these circumstances and on this record, the Panel finds that Respondent registered and used the Domain Name in bad faith.

Complainant has established Policy, paragraph 4(a)(iii).

## 7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <ethenea-investa.com>, be transferred to Complainant.

*/Marina Perraki/*

**Marina Perraki**

Sole Panelist

Date: May 26, 2022