

ADMINISTRATIVE PANEL DECISION

Enel S.p.A. v. Domain Admin, Tropic Management
Case No. D2022-3945

1. The Parties

The Complainant is Enel S.p.A., Italy, represented by Società Italiana Brevetti S.p.A., Italy.

The Respondent is Domain Admin, Tropic Management, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <enelid.net> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 21, 2022. On October 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 24, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on October 25, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on October 28, 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 the Respondent of the Complaint, and the proceedings commenced on November 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 30, 2022.

The Center appointed Mihaela Maravela as the sole panelist in this matter on December 9, 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.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

4. Factual Background

According to information in the Complaint, the Complainant is an Italian company acting in the energy market. It manages most of the Italian electricity and gas distribution network serving more than 26 million Italian customers. The Complainant's group of companies operates through its subsidiaries in more than 32 countries across 4 continents, with a net installed capacity of around 86 GW and networks covering about 2.2 million kilometers and brings energy to around 64 million customers. In 2020, the Complainant was ranked 87th in the Fortune Global 500 List, the list of the world's largest companies based on turnover, and in 2018, 28th in the Fortune Changed the World List, ranking the top 50 companies in the world that have a positive social impact through activities that are part of their business strategy and their operations.

The Complainant proved ownership of many ENEL trademarks, including the Italian trademark no. 1299011 for ENEL (figurative), registered on June 1, 2010; the European Union trademark no. 000756338 for ENEL (figurative), registered on June 25, 1999; and the International trademark no. 1322301 for ENEL (word) registered on February 4, 2016. The Complainant has registered many domain names that include the trademark ENEL, including <enel.com> which is used as the Complainant's main corporate website.

The disputed domain name was registered on May 25, 2022, and it resolves to a landing page displaying Pay-Per-Click ("PPC") links for unrelated services.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its trademarks, as the disputed domain name includes the well-known trademark ENEL in addition to the term "id", which may lead Internet users into believing that the disputed domain name is owned by the Complainant and that it leads to one of its legitimate login pages where by entering a login ID, user ID or username, clients can access various digital services.

Regarding the second element, the Complainant argues that it has neither authorized, nor somehow given its consent to register and use the disputed domain name to the Respondent. The disputed domain name is a parking page that shows advertisement in various activities different from the business of the Complainant.

Regarding the third element, the Complainant argues that the Respondent has registered the disputed domain name in bad faith given the well-known character and distinctiveness of the Complainant's trademarks. With respect to the use, the Respondent is unfairly and intentionally taking advantage of, and exploiting without authorization, the reputation and distinctiveness of the Complainant's trademarks to attract Internet users to the website related to the disputed domain name, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Preliminary Matters

No communication has been received from the Respondent in this case. However, given that the Complaint was sent to the relevant address disclosed by the Registrar, the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules and to draw inferences from the Respondent’s failure to file any Response. While the Respondent’s failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent’s default.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

6.2. Substantive Matters

Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following elements:

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

A. Identical or Confusingly Similar

The Complainant has provided evidence of its rights in the ENEL trademarks. The trademark ENEL is reproduced in its entirety in the disputed domain name. The addition of “id” does not prevent a finding of confusing similarity with the Complainant’s trademarks. The fact that a domain name wholly incorporates a complainant’s trademark is sufficient to establish identity or confusing similarity for the purpose of the Policy, despite the addition of other words to such trademarks. The addition of another term (whether descriptive, geographical, pejorative, meaningless, or otherwise) does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

It is well accepted by UDRP panels that a generic Top-Level-Domain (“gTLD”), such as “.net”, is typically ignored when assessing whether a domain name is identical or confusing similar to a trademark. See section 1.11 of the [WIPO Overview 3.0](#).

This Panel concludes that the disputed domain name is confusingly similar to the Complainant’s trademarks and therefore finds that the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* case demonstrating that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)). In the present case, the Complainant has established a *prima facie* case that it holds rights over the trademarks

ENEL and claims that the Respondent has no rights, legitimate interest or any legitimate reason to acquire and use the disputed domain name.

There is no evidence that the Respondent is using the disputed domain name in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Rather, according to the un rebutted evidence put forward by the Complainant, the website at the disputed domain name resolves to a landing page with PPC links. Given the distinctiveness and reputation of the Complainant's ENEL trademark, such use cannot amount to a *bona fide* offering of goods and services even if the links have no obvious connection with the Complainant. Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy. The Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

Furthermore, the characteristics of the disputed domain name are apt to suggest an affiliation or connection with the Complainant, which prevents any use of it by the Respondent from being considered fair. In this respect, section 2.5.1 of the [WIPO Overview 3.0](#) provides that "[...] where a domain name consists of a trademark plus an additional term (at the second or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner".

With the evidence on file, the Panel finds that the requirement of paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

The disputed domain name was registered well after the Complainant had obtained registration of its ENEL trademark and used it in commerce. Under these circumstances, the Panel considers that the Respondent has registered the disputed domain name with knowledge of the Complainant and its trademark and that it targeted that trademark.

Regarding the use of the disputed domain name, from the evidence put forward by the Complainant and not rebutted by the Respondent, it results that the disputed domain name redirects Internet traffic to a website displaying PPC advertisements. Given the confusing similarity between the Complainant's trademark and the disputed domain name, and that the PPC links operate for the commercial gain of the Respondent or of the operators of those linked websites, or both, the Panel considers that the disputed domain name is intended to attract Internet users by creating a likelihood of confusion with the Complainant's ENEL trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites or other online location or of a service offered on such other online location within the terms of paragraph 4(b)(iv) of the Policy. The fact that the links on the Respondent's website do not have an obvious connection with the Complainant's business does not, in the circumstances of the case, particularly the distinctive character and reputation of the Complainant's trademark, prevent the Respondent's use of the disputed domain name from being in bad faith.

Moreover, the Respondent has not participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible.

Based on the evidence and circumstances of this case, the Panel concludes that the disputed domain name was registered and is being used in bad faith.

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, <enelid.net> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: December 23, 2022