

ADMINISTRATIVE PANEL DECISION

Enel S.p.A. v. Huhss Huhss / Hdusns Hdusns / jeigskss jeigskss
Case No. D2022-3947

1. The Parties

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

The Respondents are Huhss Huhss, China / Hdusns Hdusns, China / jeigskss jeigskss, China.

2. The Domain Names and Registrar

The disputed domain names <enel-id.com>, <id-enel.com>, and <id-enel.net> are 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 names. On October 24, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Unknown) 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 Respondents of the Complaint, and the proceedings commenced on November 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 28, 2022. The Respondents did not submit any response. Accordingly, the Center notified the Respondents’ default on November 30, 2022.

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

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 four 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; or 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 <id-enel.net> was registered on June 3, 2022, and the disputed domain names <id-enel.com> and <enel-id.com> were registered on May 26, 2022. The disputed domain names do not resolve to an active website.

5. Parties' Contentions

A. Complainant

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

As regards the second element, the Complainant argues that it has neither authorized, nor somehow given its consent to register and use the disputed domain names to the Respondents. The disputed domain names do not resolve to an active webpage and there is no evidence of any *bona fide* use of the disputed domain names, nor of any demonstrable preparations for such an offering.

Regarding the third element, the Complainant argues that the Respondents have registered the disputed domain names in bad faith given the well-known character and distinctiveness of the Complainant's trademarks. With respect to the use, the Respondents are 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 names, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondents' websites.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary Matters

No communication has been received from the Respondents in this case. However, given that the Complaint was sent to the relevant email and postal addresses 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 Respondents’ failure to file any Response. While the Respondents’ 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 Respondents’ 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. Consolidation of Respondents

The Complainant has requested that its complaints be consolidated in respect of three domain names featuring different registrant details. According to paragraph 10(e) of the Rules, “[a] Panel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules”. The consensus view of UDRP panels on the consolidation of multiple respondents is that “[w]here a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario.” See section 4.11.2 of the [WIPO Overview 3.0](#).

Given the similarities in the Registrants’ contact information, and the composition of the disputed domain names, which all include the Complainant’s established trademark ENEL together with “id” and a hyphen, the Panel considers there are strong indications that all disputed domain names are under common control. Also, the disputed domain names have all been registered with the same Registrar within a short period of time. The Respondents have not objected to the Complainant’s consolidation request.

Under the circumstances of the case, the Panel accepts that all disputed domain names are under common control, that consolidation is procedurally efficient, fair and equitable to all Parties and orders consolidation of the disputed domain names. The Panel will refer to the “Respondent” herein below.

6.3. Substantive Matters

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

- (i) that the disputed domain names are 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 names; and
- (iii) that the disputed domain names were registered and are 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 names. The addition of “id” and of a hyphen 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 ".com" or ".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 names are 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 names.

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 names 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 names.

There is no evidence that the Respondent is using the disputed domain names 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 names within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. Also, there is no evidence that the Respondent is commonly known by the disputed domain names 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 names.

Furthermore, the characteristics of the disputed domain names are apt to suggest an affiliation or connection with the Complainant, which prevents any use of them 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 names have been registered and are 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 names' registration and use in bad faith.

According to the un rebutted assertions of the Complainant, its ENEL trademark was widely used in commerce well before the registration of the disputed domain names and is well-known (the Complainant has submitted ample evidence in this respect). The disputed domain names include the Complainant's trademarks, in addition to the respective gTLD. Under these circumstances, it is most likely that the Respondent was aware of the Complainant's trademark at the registration date of the disputed domain names. The Respondent provided no explanations for why it registered the disputed domain names.

As regards to the use, the disputed domain names are passively held.

Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be a bad faith registration: “While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put.”

The Panel finds that passive holding of the disputed domain names does not, in the circumstances of this case, prevent a finding of bad faith. There is no evidence in the record of a legitimate use of the disputed domain names. The trademark of the Complainant is distinctive and widely used in commerce. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Moreover, the Respondent has not formally 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.

In the Panel’s view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain names. The Respondent failed to bring evidence as to the contrary. Consequently, the Panel concludes that the condition of paragraph 4(a)(iii) of the Policy is fulfilled.

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 names <enel-id.com>, <id-enel.com> and <id-enel.net> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: December 26, 2022