

ADMINISTRATIVE PANEL DECISION

Çalik Enerji Sanayi Ve Ticaret Anonim Şirketi and Çalik Holding Anonim Şirketi v. Privacy service provided by Withheld for Privacy ehf / buik boiz
Case No. D2022-1990

1. The Parties

The Complainants are Çalik Enerji Sanayi Ve Ticaret Anonim Şirketi and Çalik Holding Anonim Şirketi, both from Türkiye (the “Complainant”), represented by EFOR Patent Limited Sirketi, Türkiye.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / buik boiz, United States of America.

2. The Domain Name and Registrar

The disputed domain name <calikeneji.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 1, 2022. On June 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 2, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 June 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 24, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on June 30, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant Calik Enerji Sanayi Ve Ticaret Anonim Sirketi is a Turkish energy company, established in 1998. The main areas of operations include oil and gas exploration, production, transportation, and distribution; power generation, transmission, and distribution; power design and engineering; and telecommunications services.

The Complainant Calik Holding A.S. owns trademark registrations for ÇALIK, such as Turkish trademark registration no. 2000 16787 registered on September 9, 2002, and International registration no. 1030693 registered on January 25, 2010.

The Complainant owns the domain names <calikenerji.com> and <calikenerji.com.tr>.

The Domain Name was registered on November 9, 2021. The Domain Name has resolved to the Complainant's website, but at the time of drafting the Decision, the Domain Name resolved an error website.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that its trademark is well known. The Complainant submits that the Domain Name is confusingly similar to the Complainant's trademark, and the Domain Name can hardly be distinguished from the Complainant's domain names.

The Complainant asserts that it has no association with the Respondent and has never authorized or licensed the Respondent to use its trademark. There is no evidence indicating that the Respondent has been commonly known by the Domain Name. Moreover, the Respondent's use of the Domain Name is not a legitimate noncommercial or fair use but to divert consumers or to tarnish the Complainant's trademark.

The Complainant submits that the Respondent must have been aware of the Complainant prior to registering the Domain Name, because the Complainant's trademark is well known and the Respondent has redirected the Domain Name to the Complainant's website. The Complainant argues that the Respondent's use of the Domain Name is in bad faith, as its intention is to mislead Internet users. The Domain Name is very similar to the Complainant's trade name, and there is a risk for possible illegal phishing attempts. The Respondent's use of a privacy shield service is further indication of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established that it has rights in the trademark ÇALIK. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant's trademark in its entirety with the additional element "eneji". The addition appears to be a

misspelling of “energy” or “enerji” (in Turkish), and does not prevent a finding of confusing similarity between the Domain Name and the trademark.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domains (“gTLDs”), see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant has made unrebutted assertions that it has not granted any authorization to the Respondent to register a domain name containing the Complainant’s trademark or otherwise make use of the Complainant’s mark. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired unregistered rights. There is no evidence that the Respondent has been commonly known by the Domain Name.

The Respondent has not offered any explanation as to the registration of the Domain Name, which incorporates the Complainant’s trademark in its entirety, and has not provided any evidence of good faith use of the Domain Name. The Panel agrees with the Complainant that the Respondent’s use of the Domain Name is rather evidence of bad faith. See section 6.C below.

Accordingly, the Panel finds that the Complainant has established an unrebutted *prima facie* case that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds it probable that the Respondent was aware of the Complainant when the Respondent registered the Domain Name. The Domain Name wholly incorporates the Complainant’s trademark and is almost identical to the Complainant’s tradename. The Panel finds that the Respondent’s intent in registering the Domain Name was most likely to profit in some fashion or otherwise exploit the reputation of the Complainant’s trademark, possibly for commercial gain by creating a likelihood of confusion with the Complainant’s trademark. See [WIPO Overview 3.0](#), section 3.1.

The Domain Name has been used to resolve to the Complainant’s website at “calikenerji.com” (which is almost identical to the Domain Name, being the only difference the missing “r” within the Domain Name). Noting the nature of the Domain Name, the Panel considers more likely than not that, the redirection seeks building an appearance that the Domain Name is connected to the Complainant. The Panel finds that the composition of the Domain Name along its use to redirect to the Complainant’s website lead to a finding that the Respondent registered and used the Domain Name in bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

The Respondent has not provided any evidence of actual or contemplated good-faith use of the Domain Name, and has not responded to the Complaint.

Finally, the Respondent’s use of a privacy shield service is under the circumstances of the case indication of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy.

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 Domain Name <calikeneji.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: July 4, 2022