

ADR Center for .eu attached to the Czech Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic (Czech Arbitration Court)

PANEL DECISION RELATED TO THE REQUEST TO CHANGE THE LANGUAGE OF ADR PROCEEDING (DECISION)

§ A3 (b)(6) of the .eu Dispute Resolution Rules (ADR Rules)

Case No.: 2675

Administrative Contact: Kateřina Fáberová

Complainant: **Vivartia-Industrial & Commercial company of food & catering services**

Postal address: Panemistimiou 58, Athens, Greece

E-mail: info@vivartia.com

Telephone: 0030 210 3494000

Fax: 0030 210 3494040

Authorized representative: **Vassilis Kanellopoulos**

Postal address: Solonos 41, Athens, Greece

E-mail: pvk-ius@otenet.gr

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Respondent: **Anastasios Karzakis**

Postal address: 9, Edison Street, Pallini 15351 Athens, Greece

E-mail: karzakis@hol.gr

Telephone: +30 6944200949

Fax:

Authorized representative: as above

Postal address:

E-mail:

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Domain Name(s): vivartia.eu

Case File:

English summary of the decision: English summary of this Decision is hereby attached as annex

Factual Background:

On the 13 September 2006 the Complainant, filed to CAC (Czech Arbitration Court) a request to change the language of ADR proceeding. The disputed domain names is "vivartia.eu".

On the 4 October 2006 the CAC notified the acknowledgment of receipt of said request to complainant.

On the 9 October 2006 Eurid provided information concerning the disputed domain name registration. The language of the registration agreement used by the registrant is English.

On the 16 October 2006 CAC's case administrator notified the Respondent with the commencement of language trial. The 20 October 2006 Respondent filed its response to request to change the language of ADR proceeding: acknowledgement of receipt was filed by CAC on the 30 October 2006.

On the 2 November 2006 the appointed Panellist, M. Roberto Manno, filed its declaration of acceptance and independence in deciding the present language trial, accepting to issue a decision before the deadline of the 11 November 2006.

Parties' Contentions:

Complainant:

Complainant is the Greek company Vivartia-industrial & commercial company of food & catering services.

Complainant request to change the language of the future ADR proceeding concerning the disputed domain name vivartia.eu is solely based on the ground that, "for reasons of economy of proceedings", as both parties are Greek and all the relevant documents of the proceeding are written in Greek, it should be of any convenience to turn the ADR language from English (as resulting from the registration agreement) to Greek.

Respondent:

Respondent replies that he is Greek resident, but also an Australian born citizen, fluent English speaking. It is therefore respondent's intention to retain English language for any ADR proceeding concerning the disputed domain name.

Respondent further express its intention to release any right on the disputed domain name, asking to be instructed about the operational step to immediately transfer the vivartia.eu domain name to its European lawful owner, who at the moment appears to be the complainant.

Discussion and Findings:

Panel decision related to the request to change the language of adr proceeding (decision)

Under art. A 3) ADR Rules complainant have to provide the exceptional circumstances at the basis of a language trial, which in default of any agreement is the registration agreement language (in the present case, English).

Concerning respondent's further statements about the release of rights on the disputed domain name, the Panel is not aware of any agreement between the parties pursuant to art. 4 of ADR Rules. Therefore the present language trial will be decided the basis of the documentation filed by parties.

This Panel disagrees with complainant's submission about the assumed reasons of economy of the present ADR proceeding. Complainant's reasoning underline a sort of exclusive reservation of all ADR proceeding concerning Greek parties not only to the Greek language, but also to the Greek – speaking panelist. Indeed, one could argue that those economy reasons would be fully satisfied if the Panellist is able to read Greek-written documents at his hand.

This is clearly far from the pan-european linguistic approach inspiring ADR Rules, clearly stated in recital 7) and art.22 of the Regulation 874/2004 (PPR). The Panel therefore finds that the complainant have failed to substantiate the presence of exceptional circumstances under art. A 3 ADR Rules.

Decision:

For all the foregoing reasons, in accordance with Paragraphs A3 (b)(6) of the Rules, the Panel orders that the Request is denied.

Name of the Panelist: ROBERTO MANNO

Date: 8 November 2006

Annex : English Summary

The complainant filed a request to change the language of the ADR proceeding pursuant to art. A 3) ADR Rules. The assumed exceptional circumstances at the basis of the request should consist in reasons of economy of the proceeding, as both parties are Greek and all documents of the ADR case are written in Greek, so the Greek language should be adopted. Respondent desires to retain English language, which is the language resulting from the registration agreement. The Panel dismiss complainant's request, as under .eu EU Regulations there is no reason to change the language of the ADR case. Indeed, EU regulations encourage use of all EU official language irrespective of the nationality of the parties.