Panel Decision for dispute CAC-ADREU-006346

Case number	CAC-ADREU-006346
Time of filing	2012-11-18 10:46:38
Domain names	cashconverters.eu

Case administrator

Tereza Bartošková (Case admin)

Complainant

Organization	Cash Converters Pty Ltd

Respondent

Organization	Xedoc Holdings, SA

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

None

FACTUAL BACKGROUND

The Complainants are members of an international group of companies providing pawn broking and related services under the name “CASH CONVERTERS”. The group was started in Australia in 1984, expanded to the UK in 1991, and now has 130 stores in Australia, over 170 stores in the UK and 600 stores in 21 countries worldwide.

The First Complainant owns various registered trademarks for the words “CASH CONVERTERS” or devices including these words, including CTM, UK and French registrations for the word mark. The Second Complainant operates the business in the UK and had an exclusive licence to use the “CASH CONVERTERS” marks in the UK.

The disputed domain name was registed on 7 April 2006 and has not been used.

A. COMPLAINANT

The Complainants contend that they have rights in the name “CASH CONVERTERS”. Specifically, they claim that the First Complainant owns and the Second Complainant is an exclusive licensee of registered trademarks for this name both by itself and accompanied by devices. They also claim that the Second Complainant has rights in this name as the distinctive and dominant part of its corporate name and under a franchise agreement, and that both Complainants have goodwill under the name and also rights under the name through maintaining websites promoting their business at www.cashconverters.com and other domain names with the same second level domain.

The Complainants submit that the disputed domain name is identical or confusingly similar to their name “CASH CONVERTERS”.

The Complainants state that the Respondent has no rights or legitimate interests in the disputed domain name. They point out that it has apparently not been used for any website since it was reserved by the Respondent on 7 April 2006, that they are not aware of any use by the Respondent of the domain name or any corresponding name in connection with the offering of goods or services, that the Respondent has not been commonly known by the domain name, that it is not making a legitimate non-commercial use of the domain name, and that it has not been licensed or permitted by the Complainants to use their name “CASH CONVERTERS”.

The Complainants also allege that the domain name was registered in bad faith. They point out that the Respondent must have known of their use of the name since they are and were very well known in Europe, that it would have seen that the Complainants or connected companies held corresponding domain names when it registered the disputed domain name, and that it should have checked the CTM

online database where it would have seen that “CASH CONVERTERS” is a registered CTM of the First Complainant. The Complainants submit that the disputed domain name was registered in order to prevent them from reflecting their “CASH CONVERTERS” name and CTM in the .eu TLD and note that the domain name has not been used in any relevant way since it was registered more than two years ago.

B. RESPONDENT

None

DISCUSSION AND FINDINGS

The filing of the Complaint by the two related co-complainants is clearly appropriate in accordance with the consensus view recorded at section 13 of the Overview of CAC panel views http://eu.adr.eu/html/en/handbook_final_for_publication.pdf.

The Panel finds that both Complainants have rights in the name “CASH CONVERTERS”. In particular, the First Complainant owns CTM no. 001810498 and other registered marks in respect of this name, while the Second Complainant is an exclusive licensee under these marks and has goodwill in the name. The disputed domain name is clearly identical or confusingly similar to this name, since its second level domain is effectively the same.

The Panel further finds that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Panel is satisfied on the undisputed evidence that the Respondent has not used the disputed domain name or any corresponding name in connection with the offering of goods or services and has not made demonstrable preparations to do so; that it has not been commonly known by the domain name; that it is not making a legitimate and non-commercial or fair use of the domain name; and that it has not been licensed or permitted by the Complainants to use the domain name. The Panel is further satisfied by the material submitted that there is no other basis on which the Respondent could claim any right or legitimate interest in the disputed domain name.

The Panel also finds on the undisputed evidence that the disputed domain name was registered in order to prevent the Complainants from reflecting their “CASH CONVERTERS” name and trademark in a corresponding .eu domain name, and that the domain name was not used in any relevant way for more than two years following its registration. Having regard to Article 21(3)(b) of Regulation 874/2004, the Panel finds that the domain name was registered in bad faith.

Accordingly, the Panel concludes that the disputed domain name is a speculative or abusive registration within the meaning of Article 21 of Regulation 874/2004.

The Second Complainant is registered in the UK and satisfies the general eligibility criteria set out in Article 4(2)(b) of Regulation 733/2002. It is appropriate that the disputed domain name be transferred to it as requested in the Complaint and in accordance with the second sentence of Article 22(11) of Regulation 874/2004.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that

the domain name CASHCONVERTERS be transferred to the Second Complainant, Cash Converters (UK) Limited

PANELISTS

Name	**Jonathan Turner**

DATE OF PANEL DECISION 2012-11-17

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: cashconverters.eu

II. Country of the Complainant: Australia/UK, country of the Respondent: Luxembourg

III. Date of registration of the domain name: 7 April 2006

IV. Rights relied on by the Complainants (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. Word CTM reg. No. 001810498, for the term 10 years, filed on 15 August 2000, registered on 10 October 2003, and renewed until 15

August 2020, in respect of goods and services in classes 9, 35, 36, 38, 39, 41, 42, and other registered trademarks.
2. unregistered trademark: CASH CONVERTERS

V. Response submitted: No

VI. Domain name is identical or confusingly similar to the protected rights of the Complainants

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why: No use for goods or services, not commonly known by name, no legitimate non-commercial use, no permission to use

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: Registered to prevent Complainants registering .eu domain name corresponding to their name and not used within 2 years of registration.

IX. Other substantial facts the Panel considers relevant: none

X. Dispute Result: Transfer of the disputed domain name to 2nd Complainant

XI. Procedural factors the Panel considers relevant: 1st Complainant non-EU company, 2nd Complainant UK company in same group operating under the name relied on

XII. Is Complainant eligible? Yes (2nd Complainant)