Panel Decision for dispute CAC-ADREU-006526

Case number	**CAC-ADREU-006526**
Time of filing	**2013-10-15 21:32:33**
Domain names	**mötesplatsen.eu**

Case administrator

Lada Válková (Case admin)

Complainant

Organization	**Mötesplatsen i Norden AB**

Respondent

Organization	**UAB Novabrand**

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

The Panel is not aware of any other legal proceedings related to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is a Swedish firm, running a dating site called MÖTESPLATSEN.SE at <motesplatsen.se>.

The Complainant is the owner of the Swedish national trademark registration No 0411357 MÖTESPLATSEN, filed on September 22, 2009, and registered on June 4, 2010 in respect of services in Classes 38 and 45.

The Respondent registered the disputed domain name on October 11, 2012, however no specific information is provided about the Respondent's business activities (apart from what is mentioned below under "Parties' Contentions: Complainant).

The Complaint was received by the Czech Arbitration Court on July 3, 2013, and the Request for EURid Verification was sent the same day.

After Notification of Deficiencies in Complaint was sent to the Complainant on July 9, 2013, the Complainant filed an amended Complaint on July 10, 2013.

The Czech Arbitration Court has verified that the Complaint satisfies the formal requirements of the ADR Rules and ADR Supplemental Rules of the Czech Arbitration Court. The payment in the required amount to the Czech Arbitration Court has been made by the Complainant.

The formal date of the Commencement of the ADR Proceeding was set to July 11, 2013.

The Respondent did not respond, and a Notification of Respondent's Default was issued on September 11, 2013.

On September 17, 2013, Petter Rindforth was appointed as the panelist in this case. The Projected Decision Date was set to October 17, 2013.

A. COMPLAINANT

The Complainant runs the website mötesplatsen.se which is one of the leading dating sites in Scandinavia with more than 140 000 active members. The site has run since 2001 and it is continuously growing and increasing its members.

The disputed domain name is confusingly similar to the Complainant´s trademark.

The Complainant states that the Respondent has no rights or legitimate interests in respect of the domain name <mötesplatsen.eu>, as the Respondent has no rights to the trademark MÖTESPLATSEN, nor is the Respondent a licensee of the Complainant, and the Complainant has not given the Respondent any permission to register the trademark as a domain name.

The Complainant informs that the Respondent points the disputed domain name to a dating site, which is promoting competitors to the Complainant active on the same markets as the Complainant.

The Complainant concludes that the disputed domain name was registered in bad faith and is used in bad faith. MÖTESPLATSEN is distinctive and the Respondent is using the disputed domain name for identical services, with the connecting site in Swedish and sponsored links to the Complainant's competitors.

The Complainant requests that the Panel issues a decision that the domain name <mötesplatsen.eu> be transferred to the Complainant.

B. RESPONDENT

The Respondent did not file a Response.

DISCUSSION AND FINDINGS

In order to succeed in a Complaint, the Complainant must show that the requirements of Article 21(1) of Commission Regulation (EC) No 874/2004 have been complied with. This paragraph states that:

"A registered domain name shall be subject to revocation, using an appropriate extra-judicial or judicial procedure, where that name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Community law, such as the rights mentioned in Article 10(1), and where it:
(a) has been registered by its holder without rights or legitimate interest in the name; or
(b) has been registered or is being used in bad faith."

Established Rights

Article 10(1) lists as relevant prior rights, inter alia, registered national and Community trademarks.

The Complainant refers to the trademark MÖTESPLATSEN, registered and protected as a national trademark in Sweden, a member state of the European Union.

The Panel finds that the Complainant has successfully proved its rights to the trademark MÖTESPLATSEN.

Identical or confusingly similar

Having acknowledged that the Complainant has established prior rights to the trademark, the Panel has to decide whether the disputed domain name is identical or confusingly similar to the Complainant's name rights.

It is well-established that the TLD extension of a domain name, in this case ".eu", does not affect the domain name for the purpose of determining whether it is identical or confusingly similar pursuant to Article 21 (1) of the Regulation (see Case No. 00283, lastminute.eu).

Accordingly, <mötesplatsen> shall be compared to "MÖTESPLATSEN".

The Panel finds that the disputed domain name is identical to the Complainant's trademark.

Rights or legitimate interest

The Complainant contends that the Respondent has no permission to register the domain name, and has no rights to the trademark MÖTESPLATSEN.

The Respondent is using <mötesplatsen.eu> for a website offering dating services in competition to the Respondent's service, as well as links to the Complainant's web sites and advertisement of third party services that seems to be in direct competition with the

Complainant.

Such use by the Respondent is not legitimate use and does not confer any rights in favour of the Respondent.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of <mötesplatsen.eu>.

Registered or used in bad faith

Although it is not necessary to establish whether the disputed domain name is registered or used in bad faith, the Panel wishes to comment briefly also on this requirement:

The Complainant is a Swedish company, with a Swedish national trademark registration for MÖTESPLATSEN, using the trademark for a web site for dating services.

The Respondent is based in Lithuania, but has registered the disputed domain name with the exact Swedish spelling of MÖTESPLATSEN and using it for a web site that is an obvious try to confuse the visitors that they have in fact reached the Complainant's web site or at least that the Respondent is closely related to the Complainant.

Therefore, the Panel concludes that <mötesplatsen.eu> was chosen with the Complainant in mind and that the domain name was both registered and used in bad faith.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name MÖTESPLATSEN.eu be transferred to the Complainant.

PANELISTS

Name	**Petter Rindforth, LL M**

DATE OF PANEL DECISION 2013-09-23

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: mötesplatsen.eu

II. Country of the Complainant: Sweden, country of the Respondent: Lithuania

III. Date of registration of the domain name: 11 October, 2012

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. Figurative trademark, registered in Sweden, reg. No. 0411357, for the term MÖTESPLATSEN, filed on 22 September 2009, registered on 4 June 2010 in respect of services in classes 38 and 45

V. Response submitted: No

VI. Domain name is identical to the protected right of the Complainant

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why: Respondent has no permission to use/register the domain name identical to Complainant's trademark, and is only using it to compete with the Complainant

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: Should have known of the Complainant's trademark at time of registration and is using it for the same services with links to the Complainant and competitors.

IX. Other substantial facts the Panel considers relevant: None

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant: No

XII. Is Complainant eligible? Yes