Panel Decision for dispute CAC-ADREU-006701

Case number	CAC-ADREU-006701
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Domain names	leifeld.eu

Case administrator

Lada Válková (Case admin)

Complainant

Organization	Heinrich Leifeld GmbH

Respondent

Organization	Yellow Network Limited

FACTUAL BACKGROUND

On October 24, 2011, the Respondent registered the domain name "www. leifeld.eu", hereafter the "Domain Name".

On March 27, 2014, Heinrich Leifeld GmbH and Heinrich Werner Leifeld filed a complaint against the registration of the Domain Name.

According to the extract of the Paderborn trade registry produced by the Complainant with its complaint:

- the Complainant was incorporated under German law on December 30, 1988;
- the nature of the business of the Complainant is described as "Erstellung und Handel von Sanitär und Installation, Gasheizung und Bauklempnerei" (translation "Repair and sale of sanitary and installation, gas heating and plumbing").
- the company name of the Complainant is "Heinrich Leifeld";
- the director of the company is Heinrich Werner Leifeld;

The Complainant also provided a copy of his passport from which it appears the he is born on August 31, 1956 and that his name is Heinrich Werner Leifeld.

According to the extract of the British Companies House, produced by the Respondent with its Response:

- the Respondent was incorporated under British law on March 30, 2010;
- the nature of the business is qualified as "Dormant Company";
- the last accounts made up to March 30, 2014 are marked "(DORMANT)";
- there are no UK Establishments associated with the company;
- there are no Oversea Details associated with the company.

A. COMPLAINANT

The Complainant alleges having "a legitimate interest and a legal right on the name Leifeld".

The Complainant alleges to be the owner of the domain name "leifeld.de" and to "actively trade from its registered business address in Borchen Germany (an EU Member State)."

The Complainant argues that the Respondent has no rights, nor legitimate interest in the Domain Name.

The Complainant argues that the Respondent is not a resident in the European Union and does not comply with Article 4 (2) (b) of the Regulation (EC) No. 733/2002.

The Complainant also alleges that the Respondent registered the domain name "leifeld.eu" in bad faith or on "purely speculative grounds".

Consequently, the Complainant claims the transfer in its favor of the domain name "leifeld.eu".

B. RESPONDENT

The Respondent admits that the Complainant has a right on its full name "Heinrich Leifeld" and states that domain names mentioning the said full name are available.

The Respondent alleges that its administrative seat is located in the United Kingdom.

Consequently, the Respondent claims the rejection of the transfer of the domain name "leifeld.eu" in favor of the Complainant.

DISCUSSION AND FINDINGS

A. Legal grounds

1. Eligibility criteria for registration

Pursuant to Article 4 (2) (b) of the Regulation (EC) No. 733/2002, the registration of a domain name in the .eu TLD can be requested by any:

"(i) undertaking having its registered office, central administration or principal place of business within the Community, or
(ii) organization established within the Community without prejudice to the application of national law, or
(iii) natural person resident within the Community."

In this case, according to the extract of the British Companies House and the Respondent's allegations, the Respondent seems prima facie to have a registered office in the United Kingdom and therefore complies with Article 4 (2) (b) of the Regulation (EC) No. 733/2002.

Consequently the Respondent satisfies the eligibility criteria for registration of the Domain Name.

2. Speculative and abusive registrations

According to Article 21 (1) and 22 (11) of the Regulation (EC) No. 874/2004, a registered domain name shall be subject to revocation (i) 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, and either (ii) 1) where the domain name has been registered by its holder without rights or legitimate interest in the name; or 2) the domain name has been registered or is being used in bad faith.

Regarding the first requirement:

The Complainant as legal and natural person is the holder of the company name "Heinrich Leifeld" and of the name "Heinrich Werner Leifeld".

The Complainant also alleges to be the holder of the domain name "leifeld.de".

The Domain Name is identical or confusingly similar to the predominant element of the company name "Leifeld". The Domain Name is identical or confusingly similar to the family name of the Complainant: "Leifeld". The identity of the names is not denied nor challenged by the Respondent.

Regarding the second requirement:

The Respondent does not provide any evidence of rights or legitimate interest in the Domain Name although it was duly given a chance to do so.

The Complainant has provided evidence of a prima facie lack of rights or legitimate interest on the part of the Respondent who did not challenge any of the Complainant's claims.

Furthermore, the extract of the British Companies House, produced by the Respondent qualifies the nature of its business as "Dormant Company" and marks that the last accounts made up to March 30, 2014 was "(DORMANT)". These indications advocate in favor of the allegations of the Complainant claiming that the Respondent has no right or legitimate interest in the registration of the Domain Name and have not been explained in any way by the Respondent.

The registration or the use of the domain in bad faith does not have to be examined since the criteria to revoke speculative or abusive registrations are fulfilled.

Conclusion

The Domain Name is identical or confusingly similar to the name in respect of which the Complainant holds prior rights and the Respondent has no right or legitimate interest in the registration of the domain name. The registration of the Domain Name should therefore be revoked and transferred to the Complainant which satisfies the general eligibility criteria set out in Article 4 (2) (b) of Regulation (EC) No. 733/2002.

DECISION

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

the domain name LEIFELD be transferred to the Complainant

PANELISTS

Name	**Paul Van den Bulck**

DATE OF PANEL DECISION 2014-04-29

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: Leifeld.eu

II. Country of the Complainant: Germany, country of the Respondent: United Kingdom

III. Date of registration of the domain name: 24 October 2011

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. business identifier: Heinrich Leifeld
2. company name: Heinrich Leifeld
3. family name: Leifeld

V. Response submitted: Yes

VI. Domain name is confusingly similar to the protected rights of the Complainant

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why:The Respondent does not provide any evidence of rights or legitimate interest in the Domain Name although it was duly given a chance to do so.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Not examined

IX. Other substantial facts the Panel considers relevant: /

X. Dispute Result: Transfer of the disputed domain name.

XI. Procedural factors the Panel considers relevant:

XII. Is Complainant eligible? Yes