Panel Decision for dispute CAC-ADREU-007159

Case number	CAC-ADREU-007159
Time of filing	2016-04-08 13:59:27
Domain names	JURISTA.eu

Case administrator

Lada Válková (Case admin)

Complainant

Organization	

Respondent

Organization	Blue Monkey Ltd

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 concerning the disputed domain name.

FACTUAL BACKGROUND

The disputed domain name was registered on 16 February 2013.

The Complainant is a natural person by the name Mgr. Erik Jurista.

A. COMPLAINANT

The Complainant, Mgr. Erik Jurista claims that the disputed domain name is identical to his name, to which he has a right under Czech law. Furthermore, the Respondent does not use the disputed domain name in connection with the offering of goods or services and is not commonly known by the disputed domain name.

B. RESPONDENT

The Respondent contends these allegations and submits that the disputed domain name is a generic name meaning "lawyer" in Latvian and that the Complaint is ill-founded.

DISCUSSION AND FINDINGS

First of all, it should be mentioned that “Blue Mokey Ltd, Domain Manager” was originally identified as the Respondent in the complaint. However, on 15 March 2016 the Provider has changed the name of the Respondent to “Blue Monkey Ltd, Domain Manager”. This action of the Provider was based on the Respondent’s notice dated 11 March 2016. Pursuant to Paragraph A1 of the ADR Rules Respondent means the holder of the disputed domain name. In that regard, according to EURid's verification company “Blue Monkey Ltd, Domain Manager” is the holder of the disputed domain name. Furthermore, it is not in dispute between the parties that “Blue Mokey Ltd, Domain Manager” and “Blue Monkey Ltd, Domain Manager” are in fact one legal entity. In other words, it is not in dispute that there was a clerical error in the Complaint. Therefore, the Panel is of the opinion that stating “Blue Mokey Ltd, Domain Manager” as the Respondent in the Complaint instead of “Blue Monkey Ltd, Domain Manager” was a simple clerical error which was later on corrected by the Provider in accordance with the ADR Rules.

1. DOMAIN NAME IDENTICAL OR CONFUSINGLY SIMILAR TO A NAME IN RESPECT OF WHICH A RIGHT IS RECOGNIZED

Under Articles 21(1) and 10(1) of Regulation (EC) 874/2004 (the "Article"), a family name is a prior right, where it is recognized under national law in the member state in which the right is held.

The Complainant has submitted evidence that in the Czech Republic, a family name is such a right.

Hence, the Panel finds that the Complainant does have a relevant right to the name JURISTA, which is identical with the disputed domain name.

2. RIGHTS OR LEGITIMATE INTERESTS

The Panel notes that the list in the Article laying out what can be used to demonstrate rights or legitimate interests in a domain name is not exhaustive. This means that Panels are allowed to consider also other circumstances of a particular case to determine whether the Complainant has rights or legitimate interest in a disputed domain name.

In this case the Respondent is in the business of registering, buying and selling domain names. Such business is perfectly legal so far as it does not attempt to benefit from the goodwill or positive image of a third party's trade mark or sign.

The disputed domain name is a generic Latvian word for "lawyer".

Generic or common names can also include substantial reputation when applied to unrelated goods, such as DIESEL for jeans. The Complainant's has not submitted that his name would carry goodwill or positive images from which the Respondent would try to benefit. In fact, if the Complainant is a lawyer as the Respondent claims, then the word JURISTA would be descriptive of his profession as well.

The Panel finds that the Respondent does have a legitimate right in the disputed domain name since he is merely offering for sale a generic name.

3. ALLEGED REGISTRATION AND USE OF DOMAIN NAME IN BAD FAITH

As found above, the Respondent is in the business of acquiring and selling domain names and that the disputed domain name is a generic Latvian word meaning "lawyer". There is nothing per se wrong in selling domain names.

In this case, as the disputed domain name is a generic word in Latvian, the Panel finds that the Respondent is not acting in bad faith when registering and using the disputed domain name.

DECISION

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

the Complaint is Denied

PANELISTS

Name	**Tuukka Airaksinen**

DATE OF PANEL DECISION 2016-04-08

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: jurista.eu

II. Country of the Complainant: [Czech], country of the Respondent: [Gibraltar]

III. Date of registration of the domain name: 16 February 2013

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:

10. family name:

V. Response submitted: Yes

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

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. Yes
2. Why: common generic name

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. [No]
2. Why: common generic name

IX. Other substantial facts the Panel considers relevant:

X. Dispute Result:Complaint denied

XI. Procedural factors the Panel considers relevant: Correction of the Respondent’s name after the commencement of the ADR Proceeding.