Panel Decision for dispute CAC-ADREU-007171

Case number	CAC-ADREU-007171
Time of filing	2016-07-25 06:46:03
Domain names	game-insight.eu

Case administrator

Lada Válková (Case admin)

Complainant

Organization	UAB Game Insight

Respondent

Organization	TECNOBAT di Battipaglia Ciro David

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 Complainant is one of the largest games companies in the world, founded in 2009, with more than 300 million players. The company is headquartered in Vilnius, Lithuania with 9 development studios employing more than 800 games developers. It registered the domain name <game-insight.com> on November 26, 2009 and operates a website therefrom. The Complainant also operates the websites www.game-insight.com, www.game-insight.org, www.game-insight.info, www.game-insight.biz, www.game-insight.global, www.game-insight.company and www.game-insight.enterprises.

The Complainant registered the word-graphic trademark “Game Insight” in Latvia, №M 68 937, on August 20, 2015 with the priority date February 11, 2015 and in Lithuania, №72206, on November 26, 2015 with the priority date January 27, 2015, in each case for goods and services in International classes 09, 16, 28, 35, 38, 41 and 42, including computer software, computer games software, advertising services and entertainment.

The Respondent registered the disputed domain name <game-insight.eu> on November 20, 2015. It resolved to a website on which the disputed domain name was offered for sale.

A. COMPLAINANT

The Respondent registered the domain name <game-insight.eu> without rights or legitimate interest in the domain name and in bad faith. Therefore, the registration should be declared speculative and abusive pursuant to Article 21 of the Regulation (EC) No. 874/2004 of 28 April 2004.

As a company registered under Lithuanian law (company code – 303385312), the Complainant satisfies the eligibility requirement for .eu domain name registrations pursuant to Article 4(2)(b)(i) of Regulation (EC) № 733/2002.

The domain name <game-insight.eu> and the trademarks registered by the Complainant are identical and cause a substantial likelihood of confusion within the meaning of Article 21(1) of the Regulation (EC) No. 874/2004 of 28 April 2004. The disputed domain name is also identical to the Complainant’s company name which may also be deemed misleading to consumers.

The Complainant claims that the Respondent has registered the domain name “game-insight.eu” in bad faith and only for the purpose of selling the above said domain name adverting to the information located on the website <game-insight.eu>.

Furthermore, the Complainant emphasizes the Respondent registered the domain name <game-insight.eu> on November 20, 2015, i.e. after the Complainant had acquired rights to the designation “Game Insight”.

Finally, the Complainant claims the registration of the domain <game-insight.eu> by the Respondent is intended to mislead consumers and harm the reputation of the brand name “Game Insight” which is possessed and actively used by the Complainant according to national and Community law. Therefore, the Complainant requests transfer of the domain name “game-insight.eu” to the Complainant.

B. RESPONDENT

The Respondent did not file a formal response.

DISCUSSION AND FINDINGS

By decision dated April 22, 2016, Dr. Richard Hill, as arbitrator, granted a request by the Complainant under Article A 3 (a) of the .eu Dispute Resolution Rules ("the ADR Rules") to change the language of this proceeding from Italian (the language of the Registration Agreement) to English. The Complaint was thereafter duly filed in English. There was no formal response, although the Respondent, during the course of the Complainant's application regarding the language of the proceedings, indicated having no interest in the disputed domain name.

Under Article 21(1) of the Regulation (EC) No. 874/2004 of 28 April 2004, the Complainant must establish that the disputed domain 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 where it has been registered by its holder without rights or legitimate interest in the name or has been registered or is being used in bad faith.

The Panel finds that the disputed domain name is identical to the Complainant's registered GAME INSIGHT trademark, the hyphen and the ccTLD ".eu" being inconsequential.

In the absence of any Response seeking to establish any of the factors set out in Article 21(2) of the Regulation (EC) No. 874/2004 of 28 April 2004, the Complainant's assertions of absence or rights or legitimate interest in the disputed domain name on the part of the Respondent suffice to establish that element.

Although the disputed domain name was registered only shortly after the Complainant obtained registration of its trademark in Latvia (and shortly before its Lithuanian registration, which the Panel will disregard for present purposes), the Complainant had become well known in the field of gaming since 2009 and had registered its domain name <game-insight.com> on November 26, 2009 as well as other <game-insight> domain names. The Panel concludes that the Respondent was well aware of the Complainant through its corporate name and its <game-insight> domain names at the time of registration of the disputed domain name and did so primarily for the purpose of selling the disputed domain name to the Complainant. This conclusion is supported by the fact that the sole use to which the disputed domain name has been shown to have been put is to offer it for sale.

Accordingly the Panel finds that the disputed domain name is a speculative and abusive registration for the purposes of Article 21(1) of the Regulation (EC) No. 874/2004 of 28 April 2004.

The Panel notes that, as a company registered under Lithuanian law (company code – 303385312), the Complainant satisfies the eligibility requirement for .eu domain name registrations pursuant to Article 4(2)(b)(i) of Regulation (EC) № 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 GAME-INSIGHT.EU be transferred to the Complainant

PANELISTS

Name	**Mr Alan Lawrence Limbury**

DATE OF PANEL DECISION 2016-07-20

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: GAME-INSIGHT.EU

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

III. Date of registration of the domain name: November 20, 2015.

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision: word-graphic trademark registered in Latvia, reg. No. M 68 937, for the term GAME INSIGHT, filed on 11 February, 2015, registered on 20 August, 2015 in respect of goods and services in International classes 09, 16, 28, 35, 38, 41 and 42.

V. Response submitted: no

VI. Domain name is identical/confusingly similar 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.No
2. Why: In the absence of any Response seeking to establish any of the factors set out in Article 21(2) of the Regulation (EC) No. 874/2004 of 28 April 2004, the Complainant's assertions of absence or rights or legitimate interest in the disputed domain name on the part of the Respondent suffice to establish that element.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1.Yes
2. Why: the Respondent was well aware of the Complainant through its corporate name and its <game-insight> domain names at the time of registration of the disputed domain name and did so primarily for the purpose of selling the disputed domain name to the Complainant. This conclusion is supported by the fact that the sole use to which the disputed domain name has been shown to have been put is to offer it for sale.

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: none

XII. If transfer to Complainant Is Complainant eligible? Yes.