Panel Decision for dispute CAC-ADREU-007312

Case number	CAC-ADREU-007312
Time of filing	2017-01-27 17:17:34
Domain names	amma.eu

Case administrator

	Aneta Jelenová (Case admin)

Complainant

Organization	AMMA PROGRESS s.r.o.

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 ADR Panel is not aware of any other legal proceedings.

FACTUAL BACKGROUND

On 27 October 2016 Complainant filed a Complaint against Respondent on the basis of the ".eu" Dispute Resolution Rules (hereinafter: the "ADR Rules") and requests the transfer of the domain name <amma.eu> (hereinafter: the "Domain Name") to Complainant.

On 9 December 2016 Respondent filed a request for extension of the deadline to respond to the Complaint (hereinafter: "Response to the Complaint").

On 13 December 2016 the case administrator prolonged the deadline for the Response to the Complaint to 13 January 2017.

On 10 January 2017 Respondent filed the Response to the Complaint.

A. COMPLAINANT

In the Complaint Complainant contends that the Domain Name is held by Respondent with the intention "only to speculate for sale", which is, according Complainant, against the ADR Rules. In order to support its allegations, Complainant submits a document titled "Printscreen – 26.10.2016 (13:59)", showing the Domain Name is for sale.

Complainant further contends that (i) the Domain Name corresponds to part of its official company name registered in the commercial register and (ii) it owns and uses also the domain names <ammza.cz> and <amma.sk>.

B. RESPONDENT

Respondent first contends that the sign "amma" is a generic word. According to Respondent the word "amma" is used by multiple companies in Europe. Still according to Respondent, the word "amma" would be (i) the translation in English of the words "but, however, while", (ii) refer to the supreme creator according to the Dogon people of Mali or to the ancestress of the freeman in Norse methodology and (iii) refer to the word "mother" in most Dravidian languages.

Further Respondent contends that it has registered the Domain Name in good faith. According to Respondent it did not know Complainant at the time of registration. Respondent adds that a search on the web via google does not reveal a link between the full company name of Complainant and the word "amma". According to Respondent, Complainant has no serious interest in the Domain Name, since <ammaprogress.eu> or <amma-progress.eu> would be "100% fitting" domain names for Complainant, but said domain names are not yet registered by Complainant.

Respondent further contends that Complainant omitted to provide proof of any trademark registration for the sign “amma”.

As to the absence of registration and use of the Domain Name in bath faith, Respondent refers to the ADR Decision 07159 (<jurista.eu>), which also involved Respondent (as a respondent) and where it was decided that “(…) Respondent is in the business of acquiring and selling domain names (…). There is nothing per se wrong in selling domain names”.

DISCUSSION AND FINDINGS

Pursuant to Paragraph B. 11 (d) (1) of the ADR Rules, the ADR Panel can only decide to transfer the Domain Name to Complainant if Complainant proves that the Domain Name:
(i) is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or Community law and; either
(ii) has been registered by Respondent without rights or legitimate interest in the name; or
(iii) has been registered or is being used in bad faith.

Complainant bases its Complaint on the following rights: (i) its company name registered in the commercial register and (ii) the domain names <ammza.cz> and <amma.sk>. The ADR Panel finds that Complainant fails to submit any documentary evidence of the existence and/or use of the invoked rights (See also: ADR Decision 04293 (<kurzy.eu>). In addition, Complainant does not explain on which legal grounds and to what extent its company name would be protected under national law (See also: ADR Decision 06987 (<hjt.eu>). Moreover, as regards the domain names <ammza.cz> and <amma.sk>, which Complainant claims to own and use, it should be noted that these domain names cannot, as such, grant a right to the Domain Name.

The ADR Panel finds that Complainant does not indicate if and why the registration of the Domain Name by Respondent should be considered without rights or legitimate interest.

The ADR Panel also finds that the mere fact that Respondent offers the Domain Name for sale is, as such, no proof of Respondent’s bad faith. It is not because Respondent’s business would constitute of registering, acquiring and selling domain names, that the registration of the Domain Name by Respondent would automatically need to be considered in bad faith (See also: ADR Decision 07159 (<jurista.eu>)). In other words, Complainant fails to demonstrate that the Domain Name was registered or acquired by Respondent primarily for the purpose of selling, renting, or otherwise transferring the Domain Name to Complainant. In addition, the ADR Panel notes that Complainant does not contend nor prove there would be other bad faith circumstances that would make the registration, acquisition or even use in bad faith (See Paragraph B. 11 (f) of the ADR Rules).

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	**Gunther Meyer**

DATE OF PANEL DECISION 2017-01-27

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: <amma.eu>

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

III. Date of registration of the domain name: 10 December 2014

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

V. Response submitted: Yes

VI. Domain name is not confusingly similar to the protected right of the Complainant - Complainant did not prove its right

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004): Yes - absence of rights not proven by

Complainant

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004): No - bad faith not proven by Complainant

IX. Other substantial facts the Panel considers relevant: N/A

X. Dispute Result: Complaint denied

XI. Procedural factors the Panel considers relevant: N/A