Panel Decision for dispute CAC-ADREU-007338

Case number	**CAC-ADREU-007338**
Time of filing	**2017-02-22 15:45:16**
Domain names	**assaabloyentrance.eu**

Case administrator

Aneta Jelenová (Case admin)

Complainant

Organization	**ASSA ABLOY Entrance Systems**

Respondent

Name	**Degui Wang**

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 legal proceedings which are pending or decided and which relate to the Disputed domain name.

FACTUAL BACKGROUND

ASSA ABLOY Entrance Systems (Complainant) based its request on the well-known group brand ASSA ABLOY and their legal company name ASSA ABLOY Entrance Systems.

ASSA ABLOY (www.assaabloy.com) is the global leader in door opening solutions and a market leader in most of Europe, North America, China and Oceania. ASSA ABLOY has a complete range of door opening products, solutions and services in areas such as mechanical and electromechanical locking, access control, identification technology, entrance automation and hotel security for the institutional, commercial and consumer markets.

The group company ASSA ABLOY Branding s.a.l.r. is the proprietor of the ASSA ABLOY brand used within the group. (Example: CTM No. 002784585 “ASSA ABLOY”, filed on July 22, 2002 and 014225411 “ASSA ABLOY”, filed on June 8, 2015)

ASSA ABLOY Entrance Systems (www.assaabloyentrance.com) constitutes a division within ASSA ABLOY and is a global leader in Entrance automation.

ASSA ABLOY Entrance Systems AB today have about 70 domain names registered with the domain name body “assaabloyentrance” used to communicate the divisions product and service offering in different forms. The domain names are registered in the name ASSA ABLOY Entrance Systems AB or when required through local group companies or service providers.

ASSA ABLOY Entrance Systems AB also have a number of specific trademark registrations. (Example CTM No. 014194443 “ASSA ABLOY ENTRANCE SYSTEMS Automatically green”, filed on June 2, 2015, 014194468 “ASSA ABLOY ENTRANCE Maintenance & Modernization”, filed on June 2, 2015 and W01169264 “MEGADOOR ASSA ABLOY” filed on June 13, 2013)

Extract from the EUTM register was attached as Annex EUTM search report.

A. COMPLAINANT

The Complainant’s rights

The Complainant submitted evidence that Assa Abloy Entrance Systems is registered as a part of several figurative trade marks, and Assa Abloy is also registered as word and figurative trade marks.

(CTM No. 014194443 “ASSA ABLOY ENTRANCE SYSTEMS Automatically green”, 014194468 “ASSA ABLOY ENTRANCE Maintenance & Modernization”, W01169264 “MEGADOOR ASSA ABLOY”)

The Complainant submits that Assa Abloy Entrance Systems and its affiliates are also the owner of several domain names comprising the term “Assa Abloy Entrance”.

Finally the Complainant submitted that “Assa Abloy Entrance” is the part of its legal company name.

B. RESPONDENT

Rights or legitimate interests of the Respondent

The Complainant has reached out to the Respondent in September, 2016. Without any reaction or reply. Copy of that email and email attachment was also attached.

Further arguments were not submitted by the Complainant.

Bad faith

The Complainant did not submit any fact or argument on the bad faith of the Respondent.

The Respondent refused to take part in the ADR procedure.

DISCUSSION AND FINDINGS

The Panel concludes that the Respondent did not file its Response to the Complaint. The Respondent is completely passive and does not respond to notifications of the ADR Center. Therefore, pursuant to Paragraph B (10) of the ADR Rules the Panel shall proceed to issue a Decision based upon the facts and evidence provided by the Complainant.

According to Article 21(1) of the Commission Regulation (EC) 874/2004 and to Paragraph B11(d)(1) of the ADR Rules, the Complainant must show that: the Disputed domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by national and/or EU law (point A below); and has been registered by its holder without rights or legitimate interest in the name (B); or has been registered or is being used in bad faith (C).

A. Identity or confusing similarity to the registered trademark owned by the Complainant

The Panel found out that the Complainant has provided evidence of being the exclusive licensee of the figurative trademark registrations for “ASSA ABLOY ENTRANCE SYSTEMS Automatically green”, and “ASSA ABLOY ENTRANCE Maintenance & Modernization”.
The Panel therefore finds that the Disputed domain name is confusingly similar to the part of the dominant words of the Complainant’s Trademark.

The phrase „assaabloyentrance” as domain names are registered by the Complainant under several TLDs.

Furthermore the legal company name of the Complainant, Assa Abloy Entrance Systems, is exactly the same to the Disputed domain name <assaabloyentrance.eu>.

The first requirement of Article 21(1) of the Commission Regulation (EC) 874/2004 and of § B11(d)(1) of the ADR Rules is therefore met.

B. The Respondent has no rights or legitimate interests in respect of the Disputed domain name.

The Panel did not find any evidence or circumstances that may prove the Respondent’s right or legitimate interest.

The Disputed domain name does not correspond to a trademark registered in the name of the Respondent.

The Respondent is not commonly known and does not trade under the name “Assa Abloy Entrance”.

The panel contends that it is evident from the annexed email conversation and other conduct of the Complainant that the Complainant has not licensed or otherwise authorized the Respondent to use the phrase „Assa Abloy Entrance” or register it as a domain name in any

method.

The Respondent chose a domain name which consists of the Complainant’s trademark, brand name and legal company name.

There is no evidence on using the Disputed domain name. The Panel did not find any website or content under the Disputed domain name.

Finally, the Respondent did not reply to the Complainant’s request and decided not to take part in the ADR proceedings. This is a further indication of the absence of rights or legitimate interests in the Disputed domain name (see e.g. CAC EU overview 2.0, part IV, point 8). Accordingly, the panel finds, on the balance of probabilities, that the Disputed domain name has been registered by the Respondent without rights or legitimate interests in the name.

The Panel therefore concludes that the Disputed domain name was registered by the Respondent without rights or legitimate interest in accordance with Article 21(1) of the Commission Regulation (EC) 874/2004 and of § B11(d)(1) of the ADR Rules.

C. The Disputed domain name has been registered and is being used in bad faith.

The Respondent’s bad faith in registering and using the Disputed domain name is evident for several reasons.

Given the widespread and longstanding presence of the Complainants' trademarks, brand name and products both online, , it is likely that the Respondent was aware of the Complainants' brand name, trademarks and other domain names registrations as well of the Complainants' business, and thus proceeded to registration in bad faith.

It is obvious that the Respondent registered the Disputed domain name with the intention of taking unfair advantage of the reputation of the Complainant’s goodwill.

It is therefore evident that not only the use of the Disputed domain name is blatantly in bad faith, but also its registration considering the reputation enjoyed by the mark.

Additionally, the Complainant tried unsuccessfully to contact the Respondent. The Respondent's failure to respond to the allegations of the Complainant is also an evidence of bad faith.

Furthermore, the website http://assabloyentrance.eu appears to be in a clear state of passive holding.

The Respondent’s registration of <assabloyentrance.eu> obviously confuses potential customers as to the Respondent’s affiliation with the Complainant.

Accordingly, the Complainant has successfully established that the Disputed domain name has been registered or is being used in bad faith.

The Panel therefore concludes that the Disputed domain name was registered by the Respondent bad faith in accordance with Article 21(3) (b) i. and ii. of the Commission Regulation (EC) 874/2004 and of § B11(f)(2) 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 Disputed domain name <ASSAABLOYENTRANCE.EU> be transferred to the Complainant

PANELISTS

Name	**Dr. Erika Mayer**

DATE OF PANEL DECISION 2017-02-21

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: ASSAABLOYENTRANCE.EU

II. Country of the Complainant: Sweden, country of the Respondent: France
III. Date of registration of the domain name: 21.06.2016.

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. CTM No. 014194443 “ASSA ABLOY ENTRANCE SYSTEMS Automatically green”,figurative trademark, filed on 02.06.2015.,registered on 29.10.2015 in respect of goods and services in classes 35, 42
2. CTM No. 014194468 “ASSA ABLOY ENTRANCE Maintenance & Modernization”figurative trademark, filed on 02.06.2015, registered on 25.09.2015 in respect of goods and services in classes 35, 37
3. business identifier:
4. company name:

V. Response submitted: No

VI. Domain name is identical 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. The Respondent did not respond to the Complaint. The Panel finds that the Respondent had no rights or legitimate interest in the name. The Panel made this finding based upon the absence of any evidence that the Respondent was authorized to act under the name or is commonly known by the name.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: The Panel also found that the Disputed Domain Name had been registered in bad faith because the Disputed domain name is not currently used and no evidence has been put forward that it ever was in use. Given the widespread and longstanding presence of the Complainants' trademarks, brand name and products both online, it is likely that the Respondent was aware of the Complainants' brand name, trademarks and other domain names registrations as well of the Complainants' business, and thus proceeded to registration in bad faith. It is therefore evident that not only the use of the Disputed domain name is blatantly in bad faith, but also its registration considering the reputation enjoyed by the mark. Additionally, the Complainant tried unsuccessfully to contact the Respondent. The Respondent's failure to respond to the allegations of the Complainant is also an evidence of bad faith.

IX. Other substantial facts the Panel considers relevant: No

X. Dispute Result: Transfer of the Disputed domain name

XI. Procedural factors the Panel considers relevant: No

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