Panel Decision for dispute CAC-ADREU-007373

Case number	CAC-ADREU-007373
Time of filing	2017-03-14 17:43:13
Domain names	adl-partner.eu

Case administrator

Aneta Jelenová (Case admin)

Complainant

Organization	ADLPartner

Respondent

Organization	ADL Partner

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 aware that the Complainant has filed a police report regarding attempted fraud. The Panel is not aware of any other legal proceedings relating to the Disputed domain names.

FACTUAL BACKGROUND

The Complainant is a French company with focus on marketing of subscriptions to press magazines and B2B client marketing. The Complainant uses the domain names < ADLPARTNER.FR> and <ADLPARTNER.COM> as their official websites. The email addresses of ADLPartner's employees include <ADL.PARTNER.FR>.

The Respondent registered the Disputed domain name <ADL-PARTNER.EU> on June 2 2016 and is using the Disputed domain name as part of email addresses to send messages to the Complainant’s suppliers who are under the impression that the emails are coming from the Complainant.

A. COMPLAINANT

The Complainant uses the domain names <ADLPARTNER.FR> and <ADLPARTNER.COM> as its official websites. The Complainant is also the owner of the French national trademark ADLPartner <word> (national registration no. 98729815, in classes 9, 16, 35, 38, 39, 41 and 42, application date 24 April 1998) and WIPO mark “ADLPartner” no. 1035799 registered on March 10, 2010. In classes 9, 16, 35, 38, 39 41 and 42.

The Complainant contents that the Disputed domain name is confusingly similar to the rights of the Complainant. The Complainant claims that the Respondent has no rights or legitimate interests in the disputed domain name, and that the Disputed domain name is being used as part of a fraudulent scheme by the Respondent.

The Complainant claims that the Respondent is not making a bona fide offering of goods or services or a legitimate non-commercial or fair use.

B. RESPONDENT

No response has been filed by the Respondent.

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 CAC ADR Centre made via the CAC’s online platform. 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 and 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 first requirement of Article 21(1) of the Commission Regulation (EC) 874/2004 and of § B11(d)(1) of the ADR Rules – identity or confusing similarity of the Disputed domain name to a name in respect of which the Complainant has rights – is met.

The second requirement of Article 21(1) of the Commission Regulation (EC) 874/2004 and of § B11(d)(1) of the ADR Rules - the Disputed domain name was registered by the Respondent without rights or legitimate interest – is met as well.

The third (optional in case the second requirement is met) requirement of Article 21(1) of the Commission Regulation (EC) 874/2004 and of § B11(d)(1) of the ADR Rules - the Disputed domain name was registered or is being used in bad faith – is also met.

Principal Reasons for the Decision
The Panel finds that the Disputed domain name <ADL-PARTNER.EU> is confusingly similar to the Complainant's legitimate rights, namely the trademark ADLPartner <word> and the domain names <ADLPARTNER.EU> and <ADLPARTNER.COM>.

It is the view of the Panel that the addition of a hyphen and the country code top-level domain <.EU> are to be disregarded when comparing the Disputed domain name to the rights of the Complainant (See CAC EU Overview 2.0, III. Identity or confusing similarity, 1. What is the test for identity or confusing similarity?). When disregarding the above, the Disputed domain name is identical to the rights of the Complainant.
The Panel notes that the Respondent has listed his organization to be "ADL Partners" when registering the Disputed domain name <ADL-PARTNER.EU>. The Complainant contends that the Respondent has no affiliation to the Complainant and that the Respondent has no authorization or licence to use any marks or domain names belonging to the Complainant.

In this case the Panel finds that the Complainant has made a prima facie case showing that the Respondent does not have rights or legitimate interests in the Disputed domain name within the meaning of Article 21(1) of the Commission Regulation (EC) 874/2004 and of § B11(d)(1) of the ADR Rules. The Complainant has shown to the satisfaction of the Panel that the Respondent is using the Disputed domain name as part of a fraudulent scheme where the Respondent misleads and deceives suppliers of the Complainant to believe that he is a part of the Complainants Company. The Respondent does so by making orders to suppliers in the name of the Complainant. The Respondent then informs the supplier of a shipping address that belongs to him, while informing the suppliers to collect the payment from the Complainant. The scope of the scheme for the Respondent is to receive goods without making any payment in return.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the Disputed domain name <ADL-PARTNER.EU>.

The Panel concludes that the Disputed domain name is not currently active, but has only been used by the Respondent to create email addresses used as part of the Respondents' fraudulent scheme. The actions of the Respondent are not a bona fide offering of goods or services or a legitimate non-commercial or fair use. As the Respondent is not actively using the Disputed domain name, but uses the Disputed domain name to create email addresses, the Panel finds that the Respondent has registered the Disputed domain name in bad faith.

These facts confirm that the Disputed domain name has been registered without any legitimate interests and is being used in bad faith.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the ADR Rules, the Panel orders that the Disputed domain name <ADL-PARTNER.EU> be transferred to the Complainant.

PANELISTS

Name	Lars Karnoe

DATE OF PANEL DECISION 2017-02-27

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: <ADL-PARTNERS.EU>

II. Country of the Complainant: France, country of the Respondent: France

III. Date of registration of the domain name: 2 June 2016

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. Word trademark registered in France, reg. No. 98729815, for the term ADLPartner, filed on 24 April 1998, registered in respect of goods and services in classes 9, 16, 35, 38, 39, 41 and 42.
9. company name: ADLPartner
12. other: domain names <ADLPARTNER.FR> and <ADLPARTNER.EU>

V. Response submitted: No

VI. Domain name is identical/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: No respond submitted by the Respondent. The Complainant has proved to the satisfaction of the Panel that the Respondent has no rights or legitimate interests in the disputed domain name, and is using the domain as part of a fraudulent scheme.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. Yes
2. Why: The Respondent is using the domain name as part of a fraudulent scheme.

IX. Other substantial facts the Panel considers relevant:

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant: None.

XII. Is Complainant eligible? Yes