Panel Decision for dispute CAC-ADREU-007377

Case number	CAC-ADREU-007377
Time of filing	2017-03-29 14:05:22
Domain names	transinfo.eu

Case administrator

	Aneta Jelenová (Case admin)

Complainant

Organization	Transinfo Expeditie BV

Respondent

Name	Vasil Kapytka

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 relating to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is a company active in the field of transport, storage and logistic services, founded in 1984 and having its registered offices in the Netherlands.

The Complainant runs its business under both company and commercial name TRANSINFO Expeditie. The Complainant is the holder of the domain name TRANSINFO.NL, domain name created in 1996.

Since Respondent is in default, the Panel has not been provided with specific information on Respondent and Respondents activities. However, and following a prima facie survey conducted by the Panel, it appears that Respondent is the director of the Belorussian freight transport portal TRANSINFO.BY, based in Minsk, and domain name created in 2007. Respondent has registered disputed domain name TRANSINFO.EU.

On 15 December 2016, the Complainant submitted the complaint. The Complainant requested the transfer of the disputed domain name.

The Respondent failed to submit a Response within the time frame required and a Notification of Respondent's Default was therefore issued on 21 February 2017.

A. COMPLAINANT

The Complainant relies on its company name TRANSINFO Expeditie BV, a transporting company working in several countries of the EU and the legal owner of the domain name TRANSINFO.NL.

Complainant alleges that the disputed domain name is held by an individual and is not actively being used. The website is not live (parked at parking.reg.ru) and no MX-records exists.

B. RESPONDENT

The Respondent did not file a response by the required deadline or at all.

DISCUSSION AND FINDINGS

Since the Parties' Contentions are extremely brief and do not contain any document or proof, the Panel is forced to come to its

conclusion based on its own findings.

No information is provided about the natural person Vasil Kapytka, and the panel couldn't find any information about this person after research on the internet. However, the panel found out that a person with a similar name, 'Vasily Kopytko', is the director of the Belarussian transportation company www.transinfo.by, a transnational company with departments in Kazachstan (www.transinfo.kz), Ukraïne (www.трансинфо.укр), and Russia (www.transinfo.su).

The panel assumes that Respondent's name 'Vasil Kapytka' and the director's name 'Vasily Kopytko' are written differently but refer to the same natural person. This assumption is reinforced by the fact that the names are both connected to TRANSINFO. However, the panel doesn't have any proof so the panel will not take this assumption into account in its decision.

Complainant is a Dutch transportation company, performing its services in different countries in the European Union.

The panel found out that neither Complainant's nor Respondent's company names are registered trademarks in the European Union.

Article 21 of the Regulation (EC) No. 874/2004 of 28 April 2004 (hereafter "the Regulation") states that "a registered domain name shall be subject to revocation [...]

1) where the name is identical or confusingly similar
2) to a name in respect of which a right is recognised or established by national and/or Community law, such as the rights mentioned in Article 10(1) and where it:
3) has been registered by its holder without rights or legitimate interest in the name; or
4) has been registered or is being used in bad faith".

1) Identical or confusingly similar name

The Panel finds that the disputed domain name is identical to the company name of the Complainant.

2) Protection under national and/or Community law

The rights mentioned in Article 10 (1) of the Regulation shall be understood to include as far as they are protected under national law in the Member-State where they are held: unregistered trademarks, trade names, business identifiers or company names.

Under Dutch law, a company name is protected under the Trade Name Law of 5 July 1921, containing provisions regarding the company name.

According to article 1 of the Dutch Trade Name Law a trade name is the mere name under which a business is conducted. To avoid misleading or confusing of the public, Trade Name Law protects the undertaker against use of the same or a similar name by third parties if the risk of confusion exists.

A trade name does not need registration in order to be protected; the mere economic use in public by the undertaker gives rise to protection.

According to her website transinfo.nl, complainant's company is founded in 1984 and since that moment the name is used in public, for example on Complainant's transportation trucks and advertisement.

Following the above, complainant's trade name is protected under national Dutch law.

3) Registration without rights or legitimate interest or in bad faith

The remaining issue is to decide whether the domain name TRANSINFO.EU has been registered by the Respondent without rights or legitimate interest or whether it has been registered or used in bad faith by the Respondent.

Considering that the Respondent did not submit any Response and did not comply with its obligation and time periods under the ADR Rules.

Considering that the Respondent does not use the disputed domain name.

The Panel derives from the two above-mentioned considerations that the Respondent has no legitimate interests in the disputed domain name.

Concluded, considering all the above elements in the present Case and Paragraph B10 of the ADR Rules (default), the Panel accepts the claims of the Complainant.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name TRANSINFO.EU be transferred to the Complainant

PANELISTS

Name	**M. Didier Deneuter, Attorney at law**

DATE OF PANEL DECISION 2017-03-08

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: TRANSINFO.EU

II. Country of the Complainant: the Netherlands, country of the Respondent: Poland

III. Date of registration of the domain name: 23 July 2013

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

9. company name: TRANSINFO Expeditie BV

V. Response submitted: No

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

VII. Rights or legitimate interests of the Respondent (Art. 21 (2) Regulation (EC) No 874/2004):
1. No
2. Why: no exploitation of the disputed domain name and no affiliation with the disputed domain name

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1. No
2. Why: Complainant doesn't supply such proof

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. Is Complainant eligible? Yes