Panel Decision for dispute CAC-ADREU-007798

Case number	CAC-ADREU-007798
Time of filing	2020-01-23 11:16:19
Domain names	ttpurfinanz.eu

Case administrator

	Lenka Náhlovská (Case admin)

Complainant

Organization	TT PUR Finanz GmbH

Respondent

Name	Laszlo Muka

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

I am not aware of any such pending or decided proceedings.

FACTUAL BACKGROUND

The Complainant is a German company registered with the Commercial Register on 9.10.2018 with the company name TT PUR FINANZ GmbH.
The Complainant claims its rights to this name to 2010 due to the assignment from the previous owner.
The Respondent is the owner of the disputed domain name as of 12.7.2019

A. COMPLAINANT

The Complainant claims to be owner of the company name TTPUR FINANZ GmbH as per attached registration with the Commercial Register of 9.10.2018. „GmbH “only indicates the legal form. In fact, it claims its prior rights to this designation due to the assignment by the owner and managing director of the Complainant who used this designation for business since 2010.
The Complainant has registered the domain name ttpurfinanz.de with a German internet provider 1&1 Internet AG in September 2011.
The Complainant seeks the revocation of the domain name „ttpurfinanz“.

B. RESPONDENT

Respondent filed no reply to the Complaint.

DISCUSSION AND FINDINGS

The Panelist has considered all the submitted materials and came to following findings.
The Complainant is a German company operating the business under the company name TT PUR FINANZ GmbH, whereby GmbH is a designation of a legal form, i.e. limited liability company. The Complainant was registered under this company name on 9.10.2018 in the Commercial register as per enclosed attachment.
The Complainant further claims that this designation (i.e. TT PUR FINANZ) was assigned to him by the owner and managing director of the Complainant who used it since 2010. However, this statement regarding the assignment of such rights was not supported by any evidence therefore the Panelist did not take this allegation into the account.
Further on the Complainant asserts that it registered the domain name ttpurfinanz.de with the German internet service provider.

The Respondent is a Hungarian citizen who registered the disputed domain name on 12.7.2019 and filed no reply to the Complaint.

The Panelist states that:

In accordance with Article 21 of the Commission Regulation (EC) No. 874/2004 of 28 April 2004 (hereinafter called ("Regulation") and Art. B11 (d) (1) of Alternative Dispute Resolution Rules = "ADR Rules") a Complaint shall be complied with and the registered domain name shall be subject to revocation in the event that the Complainant proves,
- that name is identical or confusingly similar to a name in respect of which a right is recognised or established by national law of a Member state and/or Community law such as the rights mentioned in Article 10 (1) of the Regulation and either:
- has been registered by the Respondent without rights or legitimate interest in the name, or
- has been registered or is being used in bad faith.
Simultaneously, no condition under Art. 21 2a – c) of the Regulation shall be complied with.

The Panelist further states that the Complainant was invited by the Panellist to supplement the arguments and evidence as referred to in Art. 21 of the Regulation. In spite of this invitation, the Complainant merely submitted again the evidence as already submitted with the Complaint (save it added filled in "Antragsformular sur Herausgabe personenbezogener Daten").

1. Condition according to Art. B11 (d) (1) (i) of ADR Rules
The Complainant has submitted the extract from the German companies register proving that the Complainant has been registered under the company name TT PUR FINANZ GmbH as of 9.10.2018. This company name is identical with the registered domain name save the indication of a legal form GmbH (i.e. limited liability company), but such part of the designation is mandatory and cannot change anything on the identity of the registered domain name and the company name of the Complainant and the same applies to the end part of the domain .eu which has no distinctive character and has no meaning with respect to the identity of the protected designation and registered domain name. This conclusion is based on the existing case law in ADR proceedings.
The Complainant further claims its rights to this designation due to an assignment by the owner and managing director of the Complainant but this allegation as stated above was not proven.
However, without any doubt the Complainant has proved the existence of its rights to the designation "TT PUR FINANZ "which is a company name as recognized by national law of a Member state in accordance with Art 10 (1) of the Regulation and enjoying priority over a registered domain name.
The Panelist therefore come to the conclusion that the domain name "TT PUR FINANZ" is identical with the company name of the Complainant. Therefore, the condition set forth under Art. B 11 (d) (1) has been met.

2.Condition according to Art. B 11(d) (1) (ii) of ADR Rules
The legitimate interest is defined in more detail in Art. 21/2 of Regulation (EC) No. 874/2004 which contains a demonstrative enumeration of the circumstances which may prove the rights or legitimate interest to a domain name.
Under the established case law, it is predominantly upon the Respondent to demonstrate the existence of his rights or legitimate interest in the domain name, as for the Complainant to prove the non-existence of such fights to be a very difficult matter, but it is up to Complainant to least assert this condition.

However, the Complainant has not provided any argument, statement or evidence in this respect at all.
Therefore, this condition has not been satisfied.

3. Condition According to Art B 11 (d)(1)(iii) of ADR Rules

Bad faith is defined in more detail in Art. B 11 (f) of the ADR Rules which contains a demonstrative enumeration of the circumstances which may prove the registration or use of a domain name in bad faith.
The Complainant has not provided any argument and statement in this respect. Therefore, the compliance with this alternative condition has not been met as well.

Conclusion:
The Complainant has not satisfied the requirements of Art. 21.1. of Commission Regulation (EC) No. 874/2004 and Art B 11(d) (1) of the ADR Rules, specifically Art. B (11) (d) (1) (ii) and/or Art. B. (11) (d) (1) (iii) Therefore, the Panelist finds the Complaint as unsubstantiated and therefore unjustified.

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	Otakar Svorcik

DATE OF PANEL DECISION 2020-01-16

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: "ttpurfinanz.eu"

II. Country of the Complainant: The Federal Republic of Germany, country of the Respondent: The Republic of Hungary

III. Date of registration of the domain name: 12.7.2019

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

company name: based on the registration in the German Commercial Register

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):

The Complainant has provided no arguments/evidence in this respect.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):

The Complainant has provided no arguments/evidence in this respect.

IX. Other substantial facts the Panel considers relevant:

None.

X. Dispute Result:

Complaint denied

XI. Procedural factors the Panel considers relevant:

None.

XII. [If transfer to Complainant] Is Complainant eligible? [Yes/No]