Panel Decision for dispute CAC-ADREU-008083

Case number	**CAC-ADREU-008083**
Time of filing	**2021-02-25 08:14:03**
Domain names	**geberit.eu**

Case administrator

Organization	**Denisa Bilík (CAC) (Case admin)**

Complainant

Organization	**Geberit Verwaltungs GmbH**

Respondent

Name	**Antoine Kaspar**

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 unaware of other legal proceedings which are pending or decided and which relate to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is a member of a group of companies engaged in providing sanitary products and services since it was founded in 1874.

It is a licensee of Geberit Holdings AG, which is the holder of European Union registered trademarks GEBERIT, Nos. 0571872, registered on May 6, 1991; 0635104, registered on December 27, 1994; and 0878950, registered on February 9, 2006.

The disputed domain name <geberit.eu> was registered by the Respondent on August 9, 2019. It resolves to a website on which it is offered for sale. On September 21, 2020 the Respondent communicated with an employee of the Complainant's group offering to sell the disputed domain name to the Complainant for 1,750EUR.

A. COMPLAINANT

The Complainant is Geberit Verwaltungs GmbH, a legal entity with its registered office in Germany. It is a member of a Swiss-based multi-national group of companies engaged in providing sanitary products and services since it was founded in 1874.

The disputed domain name is identical to the GEBERIT trademark, in which the Complainant has rights as licensee of Geberit International AG.

The Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

As to legitimacy, the disputed domain name currently resolves to the website <Dan.Com> which states that the disputed domain name is for sale for 1,750 EUR.

It is reasonable to conclude that the Respondent registered the disputed domain name knowing that it is likely to attract interest from Internet users who are searching for the Complainant.

The Complainant and its Group have used the GEBERIT name extensively across Europe. Therefore, the Complainant considers it is reasonable to conclude that the Respondent registered the disputed domain name in full knowledge of the Complainant and its activities.

The Complainant also considers that it is not possible for the Respondent to have acquired any legitimate right to use the disputed domain name since its registration.

As to bad faith, given the widespread use and reputation of the GEBERIT marks, the Respondent must have been aware that in registering the disputed domain name it was misappropriating the valuable intellectual property of Geberit Holding AG.

It is reasonable to conclude that the disputed domain name has been registered in bad faith for illegitimate purposes in order to infringe the marks; to deceive the public into believing that the goods and services offered by the Respondent are connected to the Complainant; to use the disputed domain name for the purpose of generating click through revenue; to use the disputed domain name in order to redirect Internet traffic to an alternative website or to facilitate the creation of email addresses which could be used for illegitimate or fraudulent purposes.

Given that the Website advertises the disputed domain name for sale, there is also a strong suggestion that the disputed domain name was registered with the means of selling it back to Complainant for an inflated figure. This is particularly the case as the Respondent contacted an employee of the group to enquire as to whether or the Complainant wanted to purchase the disputed domain name. None of these uses would constitute fair use and as such the Respondent has not generated any legitimate interest in the disputed domain name.

The Respondent's registration of the disputed domain name has also prevented the Complainant from registering a domain name which corresponds to the Geberit Holding AG's Marks.

The Respondent will never be capable of using the disputed domain name for a legitimate purpose as the notoriety and reputation of GEBERIT is such that members of the public will always assume that there is an association between the Respondent and the Complainant, and/or between the Respondent and Geberit Holding AG's trade marks.

B. RESPONDENT

The Respondent did not respond to the Complaint.

DISCUSSION AND FINDINGS

Article 22 of Regulation (EC) No. 874/2004 provides that an ADR procedure may be initiated by any party where the registration is speculative or abusive within the meaning of Article 21, which provides that a registered domain name shall be subject to revocation where the name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or EU law and where:
(a) it has been registered by its holder without rights or legitimate interest in the name; or
(b) it has been registered or used in bad faith.

The Panel is satisfied that the disputed domain name is identical to a name in respect of which the Complainant, as licensee of Geberit Holdings AG, has rights recognised by EU law in the Community Trade Marks "GEBERIT", the ".eu" extension being inconsequential for the purpose of this determination (see CAC case No. 00283, <lastminute.eu>).

The Complainant has provided evidence that the GEBERIT mark is distinctive and widely known. The disputed domain name was registered several years after the Complainant registered its trademark. The disputed domain name resolves to the website Dan.Com which states that it is for sale for 1,750EUR. Further, the Respondent offered to sell the disputed domain name for that amount to an employee of the Complainant's group. The Panel concludes that the Respondent registered the disputed domain name in full knowledge of the GEBERIT marks, knowing that it is likely to attract interest from Internet users who are searching for the Complainant.

There is no evidence that the Respondent is commonly known by the disputed domain name nor that she has made any fair use of it.

These circumstances lead the Panel to conclude both that the Respondent has no rights or legitimate interest in the disputed domain name and that it was registered and is being used in bad faith.

The Complainant is a legal entity with its registered office in Germany. The Complainant therefore satisfies the general eligibility criteria for registration set out in Paragraph 4(2)(b) of Regulation (EC) No 733/2002 (as amended by articles 20 and 22 of the Regulation (EU) 2019/517).

DECISION

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

PANELISTS

Name	Mr Alan Lawrence Limbury

DATE OF PANEL DECISION 2021-02-18

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: geberit.eu

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

III. Date of registration of the domain name: 9 August, 2019.

IV. Rights relied on by the Complainant (Art. 21 (1) Regulation (EC) No 874/2004) on which the Panel based its decision:
1. Figurative CTM reg. No. 0571872, filed on 06 May, 1991, registered on 09 August, 1991, in respect of goods and services in classes 6, 9, 11, 17 and 19.
2. Figurative CTM reg. No. 0635104, filed on 01, July, 1994, registered on 27 December, 1994 in respect of goods and services in classes 37, 41 and 42.
3. Figurative CTM, reg. No. 0878950, registered on 09 February 2006 in respect of goods and services in class 11.

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. Why: The Complainant has provided evidence that the GEBERIT mark is distinctive and widely known. The disputed domain name was registered several years after the Complainant registered its trademark. It resolves to the website Dan.Com which states that the disputed domain name is for sale for 1,750EUR. Further, the Respondent offered to sell the disputed domain name for that amount to an employee of the Complainant's group. The Panel concludes that the Respondent registered the disputed domain name knowing that it is likely to attract interest from Internet users who are searching for the Complainant. There is no evidence that the Respondent is commonly known by the disputed domain name nor that she has made any fair use of it. Rather it appears the Respondent registered the disputed domain name in order to profit from its resale to the Complainant.

VIII. Bad faith of the Respondent (Art. 21 (3) Regulation (EC) No 874/2004):
1.Yes.
2. Why: For the reasons stated above.

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.