Panel Decision for dispute CAC-ADREU-008119

Case number	**CAC-ADREU-008119**
Time of filing	**2021-06-17 16:35:20**
Domain names	**meyer.eu**

Case administrator

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

Complainant

Organization	

Respondent

Organization	**Meyer Group UK Ltd. - E Services**

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 pending legal proceedings relating to the disputed domain name.

FACTUAL BACKGROUND

Domain meyer.eu was registered on 07 August 2006.
With the complaint filed on 17 February 2021, the Complainant, Mr. Philipp Gerald Meyer, with an address in Karlsruhe, Germany, requested a transfer of domain meyer.eu to him, claiming that the registration of the said domain on behalf of Meyer Group UK Ltd. – E Services with an address in Bromborough, United Kingdom infringes his personality rights, which are his name and the name of the company run by the Complainant, “Philipp Meyer Softwarrentwicklung” and moreover, claiming that the domain’s owner attempts to keep his registration after the Brexit, despite the necessity of transferring the said domain to EURid.
The owner of the disputed domain indicated a correspondence address in Poland, in Bialystok, however, there was not indicated the company’s registered address but only a correspondence address (a P.O. box).

A. COMPLAINANT

In the Complainant’s opinion the disputed registration infringes his personality rights, namely his surname and the name of the company run by him: “Philipp Meyer Softwarrentwicklung”, and moreover, the owner of the domain tries to keep the disputed domain after the Brexit, despite the necessity of transferring it to EURid.
The Complainant indicated also that the domain was registered on behalf of a British company Meyer Group UK Ltd, however, from the previous entries in the WHOIS register (before the recordal of change performed by EURid) the domain was registered to “E Services” company with an address in Bialystok, Poland.
This company, according to the Complainant, is a “letterbox company” if it even existed at all and its sole purpose is to keep the domain after the Brexit.
The former given contact email address in the meyer.eu WHOIS-entry was domains@eservices.org.pl. This is a domain, which is currently not in any real use and only used for domain parking. Furthermore it was only registered for the first time on the 30th of December 2020 according to the polish WHOIS entry (https://dns.pl/en/whois - eservices.org.pl), and the postal address belongs to a postbox in Bialystok, Poland.
Also you can’t find an „E Services“ company located in Bialystok in the polish commercial register (https://ekrs.ms.gov.pl/web/wyszukiwarka-krs/strona-glowna/index.html). The closest match is "M+E SERVICE" SPÓŁKA Z OGRANICZONĄ ODPOWIEDZIALNOŚCIĄ, which roughly translates to „M+E Service Ltd.“. However this should be a completely different company, which is furthermore registered under a different address.
After the correction of the WHOIS-Entry through EURid, the organisation was updated to "Meyer Group UK Ltd. - E Services", which still doesn't show up in the polish commercial register.
In Complainant’s opinion, the abovementioned circumstances indicate the lack of the basis for keeping the meyer.eu domain by the

entity written in the register, i.e., Meyer Group UK Ltd. – E Services.

B. RESPONDENT

Did not file a response to the complaint. He also did not file in the indicated period of time his stance nor documents, namely a current extract from a relevant commercial register together with documents confirming the current address of the entity, to filing which he was summoned by the Panel with a notification dated 07 June 2021.

DISCUSSION AND FINDINGS

With reference to the allegations raised by the Complainant, the Panel came to a conclusion that first it should be determined if the entity, which is indicated in the domain register as the owner of meyer.eu domain, does indeed exist and does it carry out economic activity and where is its registered address. To this end, the Panel summoned the Respondent to file before 14 June 2021 a current extract from the relevant commercial register, together with documents confirming the current address of the entity.
Summoning to file the above-indicated documents was aimed at determining if the current owner of the domain is a British entity or an entity established in the European Union.
In the line with the contents of article 4, para. 2, point b) (iii) of the Regulation (EU) 733/2002 an .eu domain can be registered on behalf of an entity having a registered address in the European Union.
On the date of domain's registration (07 August 2006) company Meyer Group UK Ltd. – E Services met the abovementioned requirements due to the fact that the United Kingdom was a part of the European Union and the entities established in the UK met the requirement indicated in the Regulation cited above.
Due to the fact that the United Kingdom left the European Union, The Withdrawal Agreement determined a transitional period ending on 31 December 2020, during which the entities with a registered office in the United Kingdom could keep the .eu domain.
On 01 October 2020 EURid informed all British owners of .eu domains that they will be able to keep the .eu domain provided they will update their registration data before the end of the transitional period by indicating a legally established entity in one of the EU member states or their current registered address, so that it would be in one of the EU member states.
The due date for performing the abovementioned amendments and informing EURid was originally 31 March 2021 and later it was extended until 30 June 2021.
Taking into consideration the requirements indicated above, it was necessary to determine if the company Meyer Group UK Ltd. – E Services still remains an entity established in the United Kingdom with a registered office in the UK or if the company has changed its registered address to one of the EU member states – Poland.
If the company still had a registered address in the United Kingdom, then for keeping the .eu domain, in the light of the abovementioned provisions determined by EURid, it would be necessary to meet the requirements regarding having a registered office in one of the EU member states or establishing an entity in one of EU member states.
The Respondent, summoned by the Panel to file a relevant documents confirming meeting theabove-indicated requirements did not file any documents allowing to determine if the owner of the domain written in the register is a British or a Polish company.
Therefore, there are no proofs which would evidence that company Meyer Group UK Ltd. – E Services – being a British entity met the requirements indicated by EURid allowing to keep the .eu domain by an entity, which registered office is not in the EU. Indicating by the domain's owner a P.O. box address in Bialystok, in Poland, also does not meet these requirements.
A correspondence address cannot be considered equivalent to a registered address. Therefore, indicating a P.O. box address located in Poland does not give basis to recognise that this address is also a company's registered address. What is more, the Respondent did not respond to the Panel's summons and did not file an extract from a commercial register (Polish or British) in which it would be explicitly indicated where is the entity's current registered office.
According to Article B.10 ADR Rules [Default]
(a) In the event that a Party does not comply with any of the time periods established by these ADR Rules or by the Panel, the Panel shall proceed to a decision on the Complaint and may consider this failure to comply as grounds to accept the claims of the other Party.
(b) Unless provided differently in these ADR Rules, if a Party does not comply with any provision of, or requirement under, these ADR Rules, the Supplemental ADR Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.
In addition, according to Article B.11 ADR Rules [Basis for Decision]
(a) The Panel shall decide a Complaint on the basis of the statements and documents submitted and in accordance with the Procedural Rules.
(b) The remedies available pursuant to an ADR Proceeding where the Respondent is the Domain Name Holder in respect of which domain name the Complaint was initiated shall be limited to the revocation of the disputed domain name(s) or, if the Complainant 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, the transfer of the disputed domain name(s) to the Complainant.
With reference to the lack of presenting by the Respondent any proofs confirming that with relation to Meyer Group UK Ltd. – E Services company there are grounds for keeping by the said entity the registration of meyer.eu domain, including the requirements indicated by

EURid regarding the owners of .eu domains, whose address is outside the European Union, the Panel decided that, in accordance with article B.10 of the ADR Rules, the Respondent does not challenge the Complainant's allegations included in the complaint and considers them justified.
The Complainant, having an address in Germany – one of the European Union's member states, whose surname is Meyer and who runs a company under name "Philipp Meyer Softwarrentwicklung, has an interest to be an owner of meyer.eu domain.
Fulfilling all of the requirements, which are indicated in article 4, para. 2, point b) of the Regulation (EU) 733/2002 conditioning performing a registration of the .eu domain on his behalf in the factual background of the current matter, the motion included in the complaint regarding the transfer of the meyer.eu domain to the Complainant should be considered legitimate.

DECISION

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

PANELISTS

Name	**JWP Patent & Trademark Attorneys Dorota Rzazewska, Ms. Dorota Ewa Rzazewska**

DATE OF PANEL DECISION 2021-06-17

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: MEYER.EU
II. Country of the Complainant: Germany, country of the Respondent: Poland
III. Date of registration of the domain name: 07 August 2006
IV. The Complainant, German resident Philipp Gerald Meyer requested according to Paragraph 4(2)(b) of Regulation (EC) No 733/2002 as amended by articles 20 and 22 of the Regulation (EU) 2019/517 to transfer the domain meyer.eu to him, due to the fact that he is eligible to possess the domain meyer.eu as a citizen of the European Union and that he has a rightful interest with his last name being "Meyer" and that he is running a company under name "Philipp Meyer Softwarrentwicklung". The Respondent does not use the Domain Name, neither to publish information on the internet about its company nor to promote its products or services. The questioned domain's only purpose seemed to be only redirecting to www.meyergroup.co.uk. Since the Respondent did not file a Response and failed to prove the existence of a legitimate right or interest to the disputed domain name, the allegations of the Complainant are sufficient to reach the conclusion that the Domain Name must be transferred to the Complainant according to Paragraph 4(2)(b) of Regulation (EC) No 733/2002 as amended by articles 20 and 22 of the Regulation (EU) 2019/517 and art. B 12(b) and B 12(c) of ADR Rules.
V. Response submitted: No
VI. Dispute Result: Transfer of the disputed domain name
VII. Is Complainant eligible? Yes