Panel Decision for dispute CAC-ADREU-000035

Case number	CAC-ADREU-000035
Time of filing	2006-02-06 13:37:33
Domain names	pst.eu

Case administrator

Name	Jiri Blazek

Complainant

Organization / Name	Leonie Vestering

Respondent

Organization / Name	EURid

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

As per information provided by the Complainant, the opposition at the Benelux Merkenbureau registered under number 40761530, against the subsection `word' trademark "PST"as requested by PST Business Solutions B.V., on considering the Complainant that such an application is based on the violation of the logo and word trademark "PST" of Peripheral Systems Technology B.V.

FACTUAL BACKGROUND

The Complainant challenges the assignment of the eu.domain name PST to PST Business Solutions B.V. for understanding that he enjoys preferential right to be assigned that domain name, base don the arguments below.

A. COMPLAINANT

The Complainant maintains that (i) he has older rights to the name PST in dispute, for being owner of the registered trademark since 01-08-2000 (publication date) deposited at the Benelux Merkenbureau; (ii) the trademark presented by Solutions has been acquired in a speed procedure base on a subsection `word' trademark and is not legitimate as it is still subject to an appeal, while PST filed an opposition against the requested trademark.

B. RESPONDENT

The Respondant maintains that (i) it is sufficient to submit as documentary evidence a copy of an official document issued by the competent trademark office proving that the applicant is the reported owner of the registered trademark; (ii) PST Business Solutions has filed an application for the registration of the domain name on the ground of a registered trademark; (iii) the Registry has accepted the application of PST Business Solutions and decided to register the domain name on the first come, first served basis.

DISCUSSION AND FINDINGS

1. Taking into consideration the provisions of articles 10.1 and 10.2 of the Commission Regulation (EC) No. 874/2004 of 28th April 2004; article 12.3 of the same Regulation; article 14 of the same Regulation, according to the documentation filed with the Case File it is inferred that PST Business Solutions VV is owner of the trademark registered b the Benelux Trademarks Office "PST" nº 0779280, with publication date 01-01-2006; 2. Bearing in mind that although the Complainant has filed an opposition against the aforementioned trademark, according to the documentation filed by EURid such an opposition has finalized, without any statement that the trademark has been rejected; 4. Bearing in mind that PST Business Solutions has applied for the domain name on December 7, 2005 at 11:01:21.274 h. and Peripheral Systems Technology B.V. has applied for it on December 7, 2005 at 1:07:59.072 hr.; 4. Bearing in mind that the Registry shall register the domain name on the first come, first served basis, as per article 14 of the Commission Regulation (EC) No. 874/2004; 5. Bearing in mind that it is not realized that the Decision made by the Registry conflicts with the European Union Regulations (ADR Rules B (1) 11. d. (1) 2.), I decide to reject the claim and confirm the decision made by the Registry.

DECISION

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	**Enrique Batalla**

DATE OF PANEL DECISION 2006-04-18

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

English summary of the decision:
1. Taking into consideration the provisions of articles 10.1 and 10.2 of the Commission Regulation (EC) No. 874/2004 of 28th April 2004; article 12.3 of the same Regulation; article 14 of the same Regulation, according to the documentation filed with the Case File it is inferred that PST Business Solutions VV is owner of the trademark registered b the Benelux Trademarks Office .PST. n. 0779280, with publication date 01-01-2006;
2. Bearing in mind that although the Complainant has filed an opposition against the aforementioned trademark, according to the documentation filed by EURid such an opposition has finalized, without any statement that the trademark has been rejected;
3. Bearing in mind that PST Business Solutions has applied for the domain name on December 7, 2005 at 11:01:21.274 h. and Peripheral Systems Technology B.V. has applied for it on December 7, 2005 at 1:07:59.072 hr.;
4. Bearing in mind that the Registry shall register the domain name on the first come, first served basis, as per article 14 of the Commission Regulation (EC) No. 874/2004;
5. Bearing in mind that it is not realized that the Decision made by the Registry conflicts with the European Union Regulations (ADR Rules B (1) 11. d. (1) 2.), I decide to reject the claim and confirm the decision made by the Registry.