Panel Decision for dispute CAC-ADREU-001077

Case number	**CAC-ADREU-001077**
Time of filing	**2006-05-02 11:51:55**
Domain names	**euractiv.eu**

Case administrator

Name	**Tereza Bartošková**

Complainant

Organization / Name	**CHristophe LeClercq**

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

N/A

FACTUAL BACKGROUND

The Complainant as Christophe Leclercq of Euractiv.com PLC applied for Euractiv.eu ("the Disputed Domain Name") during the sunrise period based on Benelux trade mark registration No. 0641408 and Madrid protocol registration No. 712539 for EURACTIV ("the Trade marks") both in the name of the Complainant at the address 18, Avenue Diamant, B1030 Bruxelles Belgique . The application for the Disputed Domain Name had the Complainant as the Name of Applicant, EurActiv.com PLC as the Applicant Organisation and the Address as Maracas House, Herons Lea, RH103EH Crawley United Kingdom. An accompanying letter stated that the Complainant was the owner of the mark, that the address had changed but that the Complainant was still affiliated (as Managing Director) with the trade mark licensee EurActiv.com PLC. It is also stated that the .eu domain name request should be interpreted in the name of the Complainant personally. When the documentary evidence was submitted both the names of the Complainant and Euractiv.com PLC appeared on the top right of the form, the Applicant was stated in the relevant field to be Euractiv.com PLC, but the form was signed by the Complainant. Eurid refused the application on the basis that the Applicant was EurActiv.com PLC and there was no proof that the Applicant was the actual owner of the trade mark.

A. COMPLAINANT

The Complainant contends that it did provide sufficient documentary evidence and that the confusion has been caused because of the two different addresses, a fact it had tried to explain. It points out that the owner of the trade mark is the Complainant and on the application details the name of the applicant is specified to be the Complainant albeit from the organisation Euractiv.

B. RESPONDENT

The Respondent states that the actual owner of the Euractiv trade mark, the Complainant, did not apply for the Disputed Domain Name which was applied for by Euractiv.com PLC, a licensee of the trade mark. The Applicant may be a licensee, but if this is the case then the Applicant must submit a licence declaration signed by the actual owner. No such declaration was filed.

DISCUSSION AND FINDINGS

Upon examination of the Application Documentation it appears that the Complainant was the Owner of a relevant prior right the Trade Marks and intended that he should be the Applicant and owner of the Disputed Domain Name. The Complainant explained in a covering letter that the address had changed, but he was still managing director of Euractive the trade mark licensee and the application should be attributed to him personally. In the covering form accompanying the documentary evidence the Applicant was named incorrectly as Euractiv.com PLC, but the Complainant's name appeared on the top right of the form and the Complainant signed the form. The Panellist

is satisfied that although he made an error on the form covering the Documentary Evidence the Complainant was the owner of the Trade Marks and did apply for the Disputed Domain Name. As such the Panel believes that in this case it is right that the decision of Eurid should be annulled and the Disputed Domain Name should be awarded to the Complainant.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that

the EURID's decision be annulled

the domain name EURACTIV be transferred to the Complainant

PANELISTS

Name	**Dawn Osborne**

DATE OF PANEL DECISION 2006-07-11

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant as Christophe Leclercq of Euractiv.com PLC applied for Euractiv.eu ("the Disputed Domain Name") during the sunrise period based on Benelux trade mark registration No. 0641408 and Madrid protocol registration No. 712539 for EURACTIV (the Trade marks") both in the name of the Complainant at the address 18, Avenue Diamant, B1030 Bruxelles Belgique . The application for the Disputed Domain Name had the Complainant as the Name of Applicant, EurActiv.com PLC as the Applicant Organisation and the Address as Maracas House, Herons Lea, RH103EH Crawley United Kingdom. An accompanying letter stated that the Complainant was the owner of the mark and was still affiliated (as Managing Director) with the trade mark licensee EurActiv.com PLC. It is also stated that the .eu domain name request should be interpreted in the name of the Complainant personally. When the documentary evidence was submitted both the names of the Complainant and Euractiv.com PLC appeared on the top right of the form, the Applicant was stated in the relevant field to be Euractiv.com PLC and the form was signed by the Complainant. Eurid refused the application on the basis that the Applicant was EurActiv.com PLC and there was no proof that the Applicant was the actual owner of the trade mark.

Upon examination of the Application Documentation it appears that the Complainant was the Owner of a relevant prior right the Trade Marks and intended that he should be the applicant and owner of the Disputed Domain Name. He explained in a covering letter that although the adress had changed he was still managing director of Euractive the trade mark licensee and the application should be attributed to him personally. In the covering form accompanying the documentary evidence the Applicant was named incorrectly as Euractiv.com PLC, but the Complainant's name appeared on the top right of the form and the Complainant signed the form. The Panellist is satisfied that although it made an error on the form covering the documentary evidence the Complainant was the owner of the Trade Marks and did apply for the Disputed Domain Name. As such the Panel believes that in this case it is right that the decision of Eurid should be annulled and the Disputed Domain Name should be awarded to the Complainant.