Panel Decision for dispute CAC-ADREU-001134

Case number	**CAC-ADREU-001134**
Time of filing	**2006-05-19 09:17:39**
Domain names	**rabbi.eu**

Case administrator

Name	**Josef Herian**

Complainant

Organization / Name	**Rabbi Guy David Hall, MA**

Respondent

Organization / Name	**Hanoki Ltd, Unknown Unkown Unkown**

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 legal proceedings related to the disputed domain name.

FACTUAL BACKGROUND

The Complainant, Rabbi Guy David Hall, MA, is a Rabbi, offering rabbinical services via his web site at rabbi.eu.com since March 10, 2004.

The Respondent registered the disputed domain name on April 7, 2006, which was the first day of the so-called “landrush” period.

On April 29, 2006, the Complainant sent an e-mail to the Respondent, claiming better rights to the disputed domain name and asking the Respondent to transfer the registration in exchange for the initial registration fee. Respondent replied on May 9, stating that he rightfully registered the domain name.

A. COMPLAINANT

The Complainant is based in the UK, but offers his services across Europe via his web site located under the domain name rabbi.eu.com. His intention has been to create dedicated web sites using .eu domains with translations of the word Rabbi into other European languagues and pre-ordered a number of such domain names – among them rabbi.eu – via his hosting company.

The Complainant advertises his services using the keyword services provided by the search engine Google.

The Complainant claims to have rights and legitimate interest to the disputed domain name based on his use of rabbi.eu.com and states that the Respondent does not appear to have any such rights or interest. The Complainant further states that the Respondent has registered the domain name in bad faith, primarily for the purpose of selling the same.

The Complainant requests that the Panel issue a decision that the domain name <rabbi.eu> be transferred to the Complainant.

B. RESPONDENT

The Respondent argues that the Complainant has failed to state a claim upon which relief can be granted and refers to the definition of “prior rights” in Article 10(1) of the Commission Regulation (EC) No 874/2004 (“the Regulation”).

The Respondent states that Rabbi is a generic term and that it is not possible to obtain trademark rights, recognised or established by national and/or Common law, to such term if used in correspondence to the commonly understood meaning of the term.

The Respondent claims to have legitimate interest in <rabbi.eu>, as the word is generic and that he has developed a business plan for the domain name - namely to point the same to a web site which will contain general information about rabbis, etc.

Finally, the Respondent contests the Complainant's allegations that the disputed domain name was registered in bad faith.

The Respondent requests that the Panel issue a decision that the Complaint is denied.

DISCUSSION AND FINDINGS

The Respondent, in a communication of May 19, 2006 to the Center, has expressed his willingness to comment on the Response. Considering the facts and arguments allready filed by the parties, the Panel decides that it is not necessary to obtain any further information or comments from either of the parties.

The Complaint seems to be based only on Complainant's registration and use of the subdomain "rabbi" in rabbi.eu.com, registered on March 10, 2004. As pointed out by the Respondent, according to Article 21(1) of the Regulation, "a registered domain name shall be subject to revocation…where that name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Community law…"

Aricle 10(1) of the Regulation identifies "prior rights" as, inter alia, registered national and community trademarks, geographical indications or designations of origin, unregistered trademarks, trade names, business identifiers, company names, family names and distinctive titles of protected literary and artistic works.

Although not specifically stated by the Respondent, it is so understood by the Panel that the Respondent claims to have unregistered trademark rights or trade name / business identifing rights to the word Rabbi.

As already stated, Rabbi is a generic term, meaning "teacher" or more literally "great one" in Judaism. If used in connection with teaching / religious services ("rabbinical services"), "rabbi" is definitely used in the generic and commonly understood meaning of the word.

It is, in some jurisdictions, possible to obtain trademark rights to unregistered words and signs. UK is one of those countries. Even generic words may be accepted as trademarks, if used extensively for goods and/or services not commonly connected with the generic term.

In the present case, however, the Complainant's base is use of a generic term for the generic services under a rather short period of time. Such use is, and must be, free for every undertaking wanting to offer the same or similar services. The Complainant has therefore not obtained any trademark rights or other rights identified in the Regulation.

As the Complainant has failed to prove any prior rights recognized or established by national and/or Community law, the Panel denies the Complainant's request to transfer the disputed domain name to the Complainant.

Accordingly, it is not necessary to proceed to examine whether the Respondent has any rights or legitimate interests in the name or if the domain name has been registered or is being used in bad faith.

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	**Petter Rindforth**

DATE OF PANEL DECISION 2006-07-07

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant, a Rabbi, is offering rabbinical services since 2004 via his web site under <rabbi.eu.com> and therefore claims to have obtained unregistered rights to the word "Rabbi".

The Respondent registered the disputed domain name <rabbi.eu> on April 7, 2006 on first come, first served basis.

The Complaint was denied as use of a generic word for services commonly connected to and described with that generic word cannot form the base for any sole rights to such word and thus the Complainant had failed prove any prior rights as identified in Aricle 10(1) of the Regulation.