Panel Decision for dispute CAC-ADREU-001523

Case number	**CAC-ADREU-001523**
Time of filing	**2006-05-31 13:00:06**
Domain names	**cologne.eu**

Case administrator

Name	**Josef Herian**

Complainant

Organization / Name	**Stadt Koeln**

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 far as known to the Panel, no other legal proceedings concerning the disputed domain name are pending.

FACTUAL BACKGROUND

The Complainant in this administrative proceeding is the city of Cologne in Germany. Cologne (in German: Köln, in Dutch: Keulen, in Spanish and Italian: Colonia) is the fourth largest city in Germany and the largest city in North Rhine-Westphalia (which is the largest state in the Federal Republic of Germany.

The city of Cologne holds the domain name cologne.de, which is used by its tourism office to present the city in the English language to visitors from all over the world. Among the other domain names it possesses are stadt-koeln.de, koeln.de, koeln.eu, koeln.com, koeln.info, keulen.de, keulen.eu, stadtkoeln.eu, stadt-koeln.eu," and also colonia.eu.

This dispute concerns the decision of EURid (the Registry of .eu domain names) to register the disputed domain name within the first Sunrise phase in favor of Traffic Web Holding B.V., and therefore, EURid is the Respondent.

Traffic Web Holding owns the Benelux Trademark "COL&OGNE", a Picture Mark which has been registered under registration no. 0785175 at the Benelux Patent- and Trademark Office. Traffic Web Holding is also owns a vast number of other Benelux Picture Marks, many of which concern well-known cities, countries and geographical regions. These trademarks show a great number of similarities. They share the fact that they contain the ampersand symbol as part of the protected mark, they are all picture marks, and they use the same graphical illustration.

The Complainant requests the annulment of the disputed decision taken by EURid and requests to receive the domain name cologne.eu.

A. COMPLAINANT

The Complainant challenges the decision by EURid on the following grounds:

1. The prior right of the registrant (Traffic Web Holding) does not correspond to the disputed domain name, EURid and its validation agent (PWC) wrongly interpreted Article 11 of the Commission Regulation (EC) No 874/2004 (Regulation);
2. The word element contained in the figurative trademark of Traffic Web Holding is not a predominant feature of the trademark; therefore, EURid did not follow the terms of Section 19 of the Sunrise Rules; and
3. The application for the registration of the disputed domain name was made in obvious bad faith; EURid did not follow Article 21 of the Regulation.

Ad 1: Article 11 of the Regulation

The Complainant refers to Article 10 (2) of the Regulation, according to which a registration on the basis of a prior right shall consist of the registration of the complete name for which the prior right exits. The “complete” name required in this Article must be read in conjunction with Article 11 of Commission Regulation No. 874/2004.
According to Article 11, in the case of special characters being a part of a name for which the priority rights exists the following rule shall apply:
“Where the name for which the priority rights are claimed contains special characters, spaces, or punctuations, these shall be eliminated entirely from the corresponding domain name, replaced with hyphens, or, if possible, rewritten.”
Article 11 also includes a list of special characters to which this rule is applicable including the special character “&”. This special character, ampersand, is also part of the trademark “Col & ogne” on which the domain name application of the company Traffic Web Holding was based.

The Complainant quotes from ADR Proceeding No. 398 (Barcelona) which, according to the Complainant, is identical to the present case. The Complainant describes the arguments used by the Panel in deciding in favor of the then Complainant, the city of Barcelona, to annul the decision by EURid to register the domain name barcelona.eu in favor of Traffic Web Holding, based on a Benelux trademark BARC&ELONA. The Complainant concludes that the proper interpretation of Article 11, which was correctly recognized in the Barcelona case, is that when the priority right includes an ampersand, this has to be translated within the domain name into the word “and.” Based on the Barcelona case, the transcription of a particular special character depends on the priority right and the special character under consideration; and yet, it has made it clear that for the marks which Traffic Web Holding has registered with the use of an ampersand, the ampersand must always be rewritten as “and”.

Ad 2: The word element in the figurative trademark of Traffic Web Holding is not predominant

The Complainant refers, in its Complaint, to Section 19 of the Sunrise Rules, according to which the documentary evidence must clearly depict the name for which a prior right is claimed. Furthermore, a prior right claimed to a name including figurative or composite signs such as those including words, devices, pictures, logos, etc., will only be accepted according to section 19 of the Sunrise rules if the following apply:
(i) the sign contains only a name, or
(ii) the word element is predominant, and can be clearly separated or distinguished from the device element,

provided that

(a) all alphanumeric characters (including hyphens, if any) included in the sign are contained in the domain name sought, in the same order in which they appear in the sign, and
(b) the general impression of the word is apparent, without any reasonable possibility of misreading the characters of which the sign consists or the order in which those characters appear.

According to the Complainant, these conditions have not been fulfilled by the applicant, and so, the Registry’s decision constitutes a breach of Article 10 (1), 10 (2), Article 14 of the Regulation, and Section 19 of the Sunrise Rules. The applicant, Traffic Web Holding, has presented a figurative mark to the Registry. This figurative mark is a picture logo showing two parallel horizontal lines, with each line being comprised of small red squares.

The word “COL & OGNE” is fully exchangeable without any effects on the mark or its colorful picturesque logo. This becomes even clearer when one takes regard of the 131 figurative marks of Traffic Web Holding which follow the same pattern. Again, it becomes clear that the text included in the figurative mark is easily exchangeable. This also leads to the conclusion that this text phrase clearly is not the predominant part of the figurative mark, but it is the colorful arrow which is predominant.

Ad 3: Bad faith application

The Complainant argues that all trademark registrations by Traffic Web Holding were filed only for the reason of a massive and speculative domain name registration process. This massive effort of trademark applications, in concert with massive .eu-domain name applications, does show circumstances in the sense of Article 21 (3) (a) of the Regulation—as obviously the domain names including cologne.eu were only registered primarily for the purpose of selling, renting, or otherwise transferring the domain name to another holder of a name, in respect of which a right is recognized by national law.

According to Article 3 of the Regulation, the request for a domain name must contain an affirmation that it is made in good faith and does not infringe upon any rights of a third party. Clearly the mass applications made by Traffic Web Holding are contrary to these conditions. As a consequence of the volume of registrations made by Traffic Web Holding, the Registry should have realized that a defect or material inaccuracy existed and should have refused the application. This is true especially in a case where the domain name is the name of one of Europe's largest and well known cities. If the Registry should have examined the application of Web Holding more critically, it would have come to the conclusion that the application had to be rejected, as cologne.eu is clearly the natural domain name for the city of Cologne.

Therefore, the Complainant concludes that the Registry's decision also conflicts with Article 21 of the Regulation.

B. RESPONDENT

The Respondent made the following arguments addressing the points proposed by the Complainant, and they are given below in the order of the Complainant's submission as described above.

Ad 1: Article 11 of the Regulation

The Respondent discussed critically the above-mentioned BARCELONA decision. According to the Respondent, the Panel in the BARCELONA case considered that the use of the words "if possible" in Article 11.2 means that one must look both at the type of special character and the prior right itself, "The position as to what is possible may depend on the Prior Right and the particular special character under consideration." What the Panel effectively said in BARCELONA was this:
• "if possible" means that special characters can only be rewritten if the character is used in its transcribed variant in a day-to-day language;
• "if possible" means that a special character must be transcribed when it actually has a meaning and when the relevant public only understands the trademark in its transcribed variant.

The Respondent disagrees with the second part of the Panel's interpretation. The Panel stated that the validation agent/Respondent must reject an application for a domain name which does not consist of the rewritten special character when a relevant public only understands the trademark as ["word" AND "word"]. However, the Panel:
• incorrectly considered the use of the word "or" in article 11 of the Regulation;
• did not consider Sections 21 (2) and (3) of the Sunrise Rules and Article 3 of the Regulation;
• made an assessment of the trademark without giving the applicant, the holder of the trademark, the opportunity to clarify its position in this regard.

(a) The meaning of the word "or" in Article 11 of the Regulation.

It must be noted that article 11 of the Regulation does not provide an order of priorities. Indeed, when the word "or" is used, it means that one has an option. Article 11 of the Regulation provides three options when a trademark contains a special character. Any three may be applied; there are no legal grounds for the validation agent/Respondent to reject an application when the rewriting option has not been applied.

The use of the word "if possible" merely refers to the third option being available when the character can be rewritten. "If possible," as such, refers to a possibility, not an obligation. For example, the "[" character does not really have a linguistic meaning, and therefore, it cannot be rewritten. However, the "&" character has a linguistic meaning (for instance "and" in English).

The holder of a prior right containing the "[" character only has two options available, while the holder of a prior right containing the "&" character will have all three.
Should those drafting the Regulation have wanted this to be different, they would have used a different wording. For example, they would have used "if possible" in the following way: if it is possible to rewrite the special character, then the domain name must contain the rewritten special character. Moreover, this option would have been placed in the first position, before the other two, so as to prove that it must be given priority. An option which is put at the end simply cannot be considered as having priority

(b) Sections 21 (2) and (3) of the Sunrise Rules and article 3 of the Regulation.

Moreover, in contrast to the Panel's decision in the BARCELONA case, the validation agent cannot be expected to determine how the relevant public understands a certain trademark.
Indeed, article 21 (2) of the Sunrise Rules states that the validation agent will only examine whether or not an applicant has a prior right to the name, exclusively on the basis of a prima facie review of the first set of documentary evidence received. This section does not

state that the validation agent must determine how the relevant public understands the trademark. This view is supported by article 21 (3) of the Sunrise Rules which clearly states that the validation agent does not have to conduct his own investigations into the prior right claimed.

(c) The Panel should not have made an assessment of the trademark without giving the trademark holder the opportunity to clarify its position.

The BARCELONA case was a proceeding against EURid. The holder of the trademark was not present in that proceeding. However, it is imperative that the holder of the trademark be given the opportunity to clarify his position on the relevant public understanding of the trademark. The Respondent cannot be expected to defend the position of another.

In a subsequent submission dated the Respondent pointed out that in the recent ADR Decision No. 1867 (OXFORD), where a three-member Panel decided to uphold a decision by EURid to register domain name oxford.eu, it was on the basis of a prior right in the form of a Benelux trademark OXF&ORD. As stated in this ADR Decision, "…the elimination of the special character is indeed one of the possibilities created by Article 11 and because the elimination of the "&" symbol is as good as another solution for that trademark".

Ad 2: The word element in the figurative trademark of Traffic Web Holding

The Responded disagrees with the Complainant's arguments. The word element certainly is predominant. Indeed, the word element is much larger than the two horizontal lines. Moreover, the word element immediately catches the viewer's attention. The Complainant's argument that the word element is interchangeable, and therefore not predominant, is not in line with section 19 of the Sunrise Rules. The question is not whether or not a word element can be interchanged with another word element, but whether or not it is predominant. Again, the Complainant seems to be coming down to an assessment of the trademark which, as explained above, the validation agent is not empowered to do. For the sake of clarity, pursuant to section 21 (2) of the Sunrise Rules the validation agent will only examine the documentary evidence which is before him. The validation agent simply does not have at hand the 131 figurative trademarks when validating the applicant's position regarding his prior rights towards the name.

Ad 3: Bad faith application

The Respondent also disagrees with this argument. According to the Respondent, pursuant to article 22 (1) b of the Regulation, an ADR procedure may be initiated by any party where a decision taken by the Registry conflicts with this Regulation or with Regulation (EC) No 733/2002. Article 14.7 of the Regulation provides that under the phased registration the Registry shall register the domain name if it finds that the applicant has demonstrated a prior right. Therefore, during the phased registration period, the decision by the Registry whether or not to register the domain name can only be taken on the ground of the findings whether or not the applicant has demonstrated a prior right. In the Regulation, there is no legal ground for the Registry to reject an application for a domain name on the presumption that the application may have been made in bad faith or for speculative reasons. As there is no obligation under the Regulation for the Registry to assess the bad faith of the applicant and, as article 22 (1) b states that a decision by the Registry can only be annulled when its decision conflicts with the Regulation, the Complaint must be dismissed.

DISCUSSION AND FINDINGS

1. Interpretation of Article 11 of the Regulation

In this ADR Proceeding, the Complaint and Response contained two different approaches to the interpretation of Article 11 of the Regulation. The Complainant interpreted Article 11 with a strong reference to Article 10 (2) of the Regulation. This approach has been applied in a number of ADR Decisions, notably in the first of that line of cases, the BARCELONA case (ADR 398).

The Respondent, on the other hand, interpreted Article 11 independently of Article 10 (2). As stated in the Response in relation to the wording of Article 11.2, when the word "or" is used, it means that one has an unrestricted option. The use of the words "if possible" merely refers to the third option, rewriting the special character when possible, that is when the characters can be rewritten. This is an option, not a task which is automatically imposed.

The Respondent also referred to a number of previous ADR Decisions, most notably the OXFORD decision (ADR 1867) issued by a three-member Panel. In addition, in support of its interpretation of Article 11 the Respondent argued that "in contrast to the Panel's decision in BARCELONA, the validation agent cannot be expected to determine how the relevant public understands a certain trademark." The Respondent argued that neither the validation agent nor the Panel can assess issues related to the character or "appearance" of a trademark without giving chance to the trademark holder to express his views on this subject.

In the Panel's view, Article 10 (2) of the Regulation is the principle rule governing the Sunrise-related domain name registrations. This provision summarizes the substance of the Sunrise, i.e., the registration of domain names which correspond to protected, existing prior rights. Indeed, in the absence of Article 10 (2), the first-to-file principle would be the only governing principle of .eu domain name registrations, and the Sunrise would not exist. Article 10 (2) of the Regulation is the main differentiator between domain name registrations of the Sunrise period and those coming afterwards or the "land-rush" domain name registrations.

Therefore, the Panel thinks that Article 10 (2) of the Regulation represents a general rule in relation to Sunrise domain name registrations. It spells out the identicality principle between the prior right and corresponding domain name. Article 11 is a specific provision which contains rules on how to implement the general principle contained in Article 10 (2), in situations where the names to be registered as domain names include, among other things, special characters. The first words of Article 11 states: "As far as the registration of complete names is concerned…..," which clearly refers to the general rule in Article 10 (2) of the Regulation. The issue is that special characters as such cannot be simply reproduced in a domain name.

Art. 11, par. 1, of the Regulation reads as follows: "as far as the registration of complete names is concerned, where such names comprise a space between the textual or word elements, identicality shall be deemed to exist between such complete names and the same names written with a hyphen between the word elements or combined in one word in the domain applied for.

Therefore when we have a trademark comprising two name with a space between them Art.11 states that identicality (this is the word used by the legislator) is maintained when the domain name is written with a hyphen or combined in one word. In relation to other characters Art.11.2 applies.

Art. 11, par. 2 of the Regulation reads "where the names for which prior rights are claimed contains special characters, spaces or punctuations, these shall be eliminated entirely from the corresponding domain name, replaced with hyphens or, if possible, rewritten".

When it is possible a domain name has to be rewritten otherwise those characters could be eliminated or replaced with a hyphen. In the second paragraph there is no "presumption of identicality" (as it was the case of Art.11.1) and therefore the three options offered by the second paragraph of art.11 have to be read in the light of the superior principle of identicality. Those solutions are possible as far as identicality between the trademark claimed and the domain name requested is maintained.

& is one of those characters.

From the above-mentioned laws it seems very clear that there must be "identicality" between trademarks and the requested domain names. The said provisions are guidelines to follow in order to achieve that aim: identity between prior rights and domain name.

Art. 11 offers a choice of three solutions in order to convert a trademark which has special characters or punctuations as indicated in the same provision. & is one of those. In these instances, the special characters or punctuations have to be (i) eliminated entirely from the corresponding domain name, (ii) replaced with hyphens, or, if possible, (iii) rewritten.

The best decision has to be taken in order to maintain the identity rule between trademark and domain name, taking into consideration that, if possible, the domain should be rewritten in order to meet the identity rule.

What does identity mean? In any dictionary one can find that identity means: "The quality or condition of being exactly the same; identicalness, oneness, sameness, selfsameness. Therefore, the "exact sameness of the things compared" needs to be stressed.

A strict interpretation is consistent with the legal rationale of the sunrise provisions. The issue of identity was very clearly explained by the Advocate General, Mr. Jacobs, in his Opinion of 17 January 2002 in the European Court of Justice Case: C-291/00 between S.A S.A. Société LTJ Diffusion vs. SA SADAS. In relation to art. 4 (1) and 581) (a), he declared that "in principle, any difference, whether it might be viewed as adding, removing or modifying any element, must involve loss of identity. And further "yet there may be slight differences between trade marks so that the two are not rigorously identical, but nonetheless remain difficult to distinguish from one another".

Therefore, the Panel believes that in this case, too, the concept of identity has to be construed strictly, but, at the same time, it should not take into account minimal or insignificant changes which are not noticeable.

In practical terms, if a trademark is composed of two names with autonomous meanings and recognition by an average person of their individuality, then keeping or eliminating the "&" character does not alter the identity rule. Procter & Gamble or ProcterGamble.eu are recognised as the same, on the contrary COL&OGNE and COLOGNE are different enough to be considered not identical.

As stated in the recent ADR Decision 2185 (ANTWERP, ANTWERPEN), “the list of typographical symbols listed in Article 11 (2) are accorded very different treatment in practice and no provision is made for this by the wording of the Article. In particular, some typographical symbols would be accorded much greater significance than others when determining what would constitute the “complete name” which is to form the basis of the registration of the prior right under Article 10.2.” The Panel in ADR 2185 then provides examples of different special characters such as “!” or “[” or currency symbols and discusses how the general public would understand such symbols in a mark.

The Panel then continues that “the use of the ampersand is generally accorded still greater significance than other types of special characters. It is not usually disregarded when considering what constitutes a complete name. To take a specific example, the leading UK retailer Marks & Spencer has its website at MarksandSpencer.com. It would generally be considered that its complete name is Marks & Spencer (or, perhaps, Marks and Spencer) but not MarksSpencer. To this extent, Article 10.2 and Article 11.2 are in conflict because Article 10.2 requires the registration of the complete name but Article 11.2 does not. On the face of it, Article 11.2 reflects the fact that different typographical symbols will be accorded a different weight in determining what constitutes the complete name.”

The Panel agrees with these arguments. In the Panel’s view, it is possible to conclude that Article 11 represents a necessary exception to the general rule of correspondence between the domain name claimed and the protected prior rights.

Being an exception to the general rule, Article 11 of the Regulation should be interpreted restrictively so that it is as narrow as possible. Therefore, the Panel thinks that the interpretation of Article 11 proposed by the Complainant is more sound than the view of the Respondent. If Article 11 were to be interpreted as the Respondent suggests, the whole system of Sunrise registrations would become vulnerable, and the sole governing rule of domain name registrations would be the first-to-file principle. The Panel thinks that those who drafted the Regulation could not have had this in mind when writing Article 11.

The Respondent also states that the validation agent cannot assess how the general public would understand the prior right trademarks without allowing the trademark owners to express their views. The main duties of EURid, as the Registry, are contained in the final paragraph of Article 14 of the Regulation which states: “The Registry shall register the domain name, on the first come first served basis, if it finds that the applicant has demonstrated a prior right in accordance with the procedure set out in the second, third and fourth paragraphs.”

As follows from this provision, EURid must assess whether or not the applicant demonstrated his prior rights in accordance with the Regulation. This obligation on the Registry means that, inevitably, EURid must assess whether or not the desired domain name in the application for registration constitutes a complete name for which prior rights exist.

The Panel thinks that EURid has regularly assessed the “appearance” of a presented trademark against the domain name sought in accordance with the Regulation. For example with respect to figurative/composite trademarks, such an assessment is performed by EURid and its validation agent. Inevitably, EURid has been assessing special characters as well. The purpose of ADR Proceedings against EURid is solely to decide whether or not EURid complied with this obligation. The Regulation defines two types of ADR Proceedings, one against the Registry and one against domain name holders. The Regulation defines these two types of ADR Proceedings in order to achieve the necessary efficiency and swiftness which is expected from domain name ADR. In the Panel’s view, the Respondent’s argument about the need for the trademark owners being a Party to the ADR Proceedings against the Registry is interesting but is not based on the Regulation.

Therefore, the Panel concludes that EURid did not assess the application of Traffic Web Holding correctly and in line with Article 11 of the Regulation.

2.
For the sake of completeness, the Panel also discussed the two additional grounds for annulling the disputed decision of EURid mentioned by the Complainant, namely that (i) the word element contained in the figurative trademark of Traffic Web Holding is not predominant feature of the trademark; and (ii) the domain name application by Traffic Web Holding was made in bad faith. In both instances, the Panel upheld the arguments proposed by the Respondent, considering both of the additional arguments by the Complainant not well founded in this ADR Proceedings.

3.
In his Complaint, the Complainant requests that the EURid decision be annulled and the disputed domain name cologne.eu be registered in favor of the Complainant—being the next applicant in the queue. In accordance with Section 27 of the Sunrise Rules, the Panel cannot order the automatic registration of the disputed domain name for the Complainant because this issue must be decided by EURid, in accordance with the procedure set out in the Sunrise Rules.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the ADR Rules, the Panel orders that EURid's decision be annulled and that the Registry, without delay, decide whether or not to register the domain name cologne.eu in the name of Stadt Koeln of Germany—being the next applicant in the queue.

PANELISTS

Name	Jiri Cermak

DATE OF PANEL DECISION 2006-10-15

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant, the city of Cologne, filed a Complaint against a decision of EURid to register a domain name "cologne.eu" in favour of Traffic Web Holding B.V. based on its Benelux trademark "COL&OGNE". The most important discussion in the present ADR Proceeding was about the interpretation of Article 10(2) and Article 11 of the Commission Regulation (EC) No 874/2004 (Regulation).

The Panel thinks that Article 10 (2) of the Regulation represents a general rule in relation to Sunrise domain name registrations. It spells out the identicality principle between the prior right and corresponding domain name. Article 11 is a specific provision which contains rules on how to implement the general principle contained in Article 10 (2), in situations where the names to be registered as domain names include, among other things, special characters.

Art. 11, par. 1, of the Regulation reads as follows: "as far as the registration of complete names is concerned, where such names comprise a space between the textual or word elements, identicality shall be deemed to exist between such complete names and the same names written with a hyphen between the word elements or combined in one word in the domain applied for.

Therefore when we have a trademark comprising two name with a space between them art.11 states that identicality (this is the word used by the legislator) is maintained when the domain name is written with a hyphen or combined in one word. In relation to other characters Art.11.2 applies.

Art. 11, par. 2 of the Regulation reads "where the names for which prior rights are claimed contains special characters, spaces or punctuations, these shall be eliminated entirely from the corresponding domain name, replaced with hyphens or, if possible, rewritten".

In the second paragraph there is no "presumption of identicality" (as it was the case of art.11.1) and therefore the three options offered by the second paragraph of art.11 have to be read in the light of the superior principle of identicality.

Those solutions are possible as far as identicality between the trademark claimed and the domain name requested is maintained.

Art. 11.2 offers a choice of three solutions in order to convert a trademark which has special characters or punctuations as indicated in the same provision. & is one of those. In these instances, the special characters or punctuations have to be (i) eliminated entirely from the corresponding domain name, (ii) replaced with hyphens, or, if possible, (iii) rewritten. The best decision has to be taken in order to maintain the identity rule between trademark and domain name, taking into consideration that, if possible, the domain should be rewritten in order to meet the identity rule.

The Respondent also stated in its Response that the validation agent cannot assess how the general public would understand the prior right trademarks without allowing the trademark owners to express their views. The main duties of EURid, as the Registry, are contained in the final paragraph of Article 14 of the Regulation which states: "The Registry shall register the domain name, on the first come first served basis, if it finds that the applicant has demonstrated a prior right in accordance with the procedure set out in the second, third and fourth paragraphs."

As follows from this provision, EURid must assess whether or not the applicant demonstrated his prior rights in accordance with the Regulation. This obligation on the Registry means that, inevitably, EURid must assess whether or not the desired domain name in the application for registration constitutes a complete name for which prior rights exist.

The Panel thinks that EURid has regularly assessed the "appearance" of a presented trademark against the domain name sought in accordance with the Regulation. For example with respect to figurative/composite trademarks, such an assessment is performed by EURid and its validation agent. Inevitably, EURid has been assessing special characters as well.

The Panel ordered that EURid's decision be annulled and that the Registry, without delay, decide whether or not to register the domain name cologne.eu in the name of Stadt Koeln of Germany—being the next applicant in the queue.