Panel Decision for dispute CAC-ADREU-002047

Case number	**CAC-ADREU-002047**
Time of filing	**2006-07-10 13:31:33**
Domain names	**uni-c.eu**

Case administrator

Name	**Tereza Bartošková**

Complainant

Organization / Name	**UNI-C, The Danish IT-Centre for Research and Education, Chiefconsultant Ib Lucht**

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

The Panel is not aware of any other legal proceedings, which are pending or decided and which relate to the disputed domain name.

FACTUAL BACKGROUND

The Complainant applied for the domain name uni-c.eu (hereafter “the Domain Name”) on 7 February 2006, claiming a prior right on the company name UNI-C according to Section 16 of the .eu Registration Policy and Terms and conditions for Domain Name Applications made during the Phased Registration Period (hereafter the “Sunrise rules”).

The Complainant submitted within the deadline as documentary evidence an extract of its registration in the Danish companies register.

However it results from the submitted extract of the companies register that the Complainant is registered under the company name “UNI-C, Danmarks edb-center for uddannelse og forskning”.

The application for the Domain Name was rejected by the Respondent because the registration of a domain name on the basis of a prior right consists in the registration of the complete name for which the prior right exists, as manifested by the Documentary Evidence.

A. COMPLAINANT

The Complainant contends that according to Section 16(4) of the Sunrise Rules he sufficiently demonstrates to be the holder of a prior right on the company name UNI-C and that therefore the decision of the Respondent to reject the application for the Domain Name conflicts with the Regulation 733/2002 and/or the Public Policy Regulation.

The Complainant attaches to his complaint (1) an extract from the Danish companies register, (2) an extract from the DK Whois database stating that the registrant of the domain name uni-c.dk is Uni-c, with registered offices at Olof Palmes Alle 38, 8200 Aarhus is a department of Uni-c, the Danish IT-Centre for Research and Education and (3) a document bearing the title URL confirming the content of the extract from the DK Whois database.

B. RESPONDENT

The Respondent does not dispute that the Complainant sufficiently demonstrated that the name of the registered company is “UNI-C, Danmarks edb-center for uddannelse og forskning”.

However, article 10 (2) of the Public Policy Regulation states that the registration on the basis of a prior right shall consist of the registration of the complete name for which the prior right exists, “as written in the documentation which proves that such a rights exists”.

The documentation that proves that the claimed right exists is an extract from the Danish Business register. The name that is written on this documentation is “UNI-C, Danmarks edb-center for uddannelse og forskning”, but the Complainant applied for the Domain Name.

Pursuant to article 10.2 of the Public Policy Regulation the Respondent had to reject the Complainant’s application, since UNI-C is not the complete name for which the prior right exists, as written in the documentary evidence which proves that such right exists.

The only element, which may be omitted from company names pursuant to section 19 (4) of the Sunrise Rules, is the company type (such as GmbH), omitting other elements of the company name as written in the documentary evidence would obviously not respect the clear wording of article 10.2 of the Public Policy Regulation.

DISCUSSION AND FINDINGS

Under article 22 of the Public Policy Regulation the Panel has to assess whether the decision to reject the application for the Domain Name taken by Respondent conflicts with the Regulation 733/2002 and/or the Public Policy Regulation.

Having considered the Factual Background and the Parties’ Contentions outlined above, the Panel takes the following decision.

Article 10.1 of the Public Policy Regulation provides that only holders of prior rights recognized or established by national and/or Community law and public bodies shall be eligible to apply for a domain name during the sunrise registration period. Article 14 of the Public Policy Regulation provides that all claims for prior rights under Article 10.1 and 10.2 must be verifiable by documentary evidence which demonstrates the right under the law by virtue it exists.

Article 10.2 of the Public Policy Regulation further provides that the registration on the basis of a prior right shall consist of the registration of the complete name for which the prior right exists, as written in the documentation which proves that such a right exists.

Pursuant to Article 12.1 of the Public Policy Regulation, the Respondent published the Sunrise rules which contains the technical and administrative measures used by it in the administration of the sunrise period. According to Section 16.4 of the Sunrise Rules a prior right on a company name shall be sufficiently demonstrated by submitting (i) an extract from the relevant companies or commercial register; (ii) a certificate of incorporation or copy of a published notice of the incorporation or change of name of the company in the official journal or government gazette; or (iii) a signed declaration from an official companies or commercial register , a competent authority or a notary public. Such documents must clearly indicate that the name for which the prior right is claimed is the official company name, or one of the official company names of the applicant. Moreover Section 19 of the Sunrise Rules provides pursuant to Article 10.2 of the Public Policy Regulation that the registration of a domain name on the basis of a prior right consists in the registration of the complete name for which the prior right exists, as manifested by the documentary evidence. It is not possible for an applicant to obtain the registration of a domain name comprising part of the complete name for which the prior right exists. The only element which may be omitted from company names pursuant to section 19 (4) of the Sunrise Rules is the company type.

The examination of the prior right claim by the validation agent is exclusively made on the basis of a prima facie review of the first set of documentary evidence received. The validation agent is not obliged to conduct its own investigation into the circumstances of the application (Section 21.2 and 21.3 of the Sunrise Rules).

The only documentary evidence submitted by the Complainant with the application consists of an extract of its registration in the Danish companies register. According to this document the Complainant is registered in Denmark under the company name “UNI-C, Danmarks edb-center for uddannelse og forskning” and under the company name “Danmarks IT-center for Uddannelse og Forskning”. The Domain Name for which the Complainant applied is therefore not the complete name for which the prior right exists, as manifested by the documentary evidence.

The additional documents attached to the complaint merely indicates that Complainant’s department in Aarhus is the registrant of the domain name uni-c.dk. However such documents have not been submitted as documentary evidence with the application. Moreover those documents do not meet the general and specific substantive requirements for documentary evidence set for in Sections 12 and 16 of the Sunrise Rules. Furthermore the extract from the DK Whois database clearly states that the data is provided for information purposes only without guarantee regarding its accuracy.

The Complainant fails therefore to demonstrate to be the holder of a prior right on the company name UNI-C in accordance with the provisions of the Sunrise Rules and the Public Policy Regulation.

Therefore the decision of the Repondent to reject the Domain Name application does not conflict with the Regulation 733/2002 and/or the Public Policy Regulation.

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	Ignace Vernimme

DATE OF PANEL DECISION 2006-10-26

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant applied for the domain name uni-c.eu (hereafter “the Domain Name”) on 7 February 2006, claiming a prior right on the company name UNI-C according to Section 16 of the .eu Registration Policy and Terms and conditions for Domain Name Applications made during the Phased Registration Period (hereafter the “Sunrise rules”).

The Complainant submitted within the deadline as documentary evidence an extract of its registration in the Danish companies register.

However it results from the submitted extract of the companies register that the Complainant is registered under the company name “UNI-C, Danmarks edb-center for uddannelse og forskning”.

The application for the Domain Name was rejected by the Respondent because the registration of a domain name on the basis of a prior right consists in the registration of the complete name for which the prior right exists, as manifested by the Documentary Evidence.

The only documentary evidence submitted by the Complainant with the application consists in an extract of its registration in the Danish companies register. According to this document the Complainant is registered in Denmark under the company name “UNI-C, Danmarks edb-center for uddannelse og forskning” and under the company name “Danmarks IT-center for Uddannelse og Forskning”. The Domain Name for which the Complainant applied is therefore not the complete name for which the prior right exists, as manifested by the documentary evidence (Section 19 of the Sunrise Rules provides pursuant to Article 10.2 of the Public Policy Regulation).

The additional documents attached to the complaint merely indicates that Complainant’s department in Aarhus is the registrant of the domain name uni-c.dk. However such documents have not been submitted as documentary evidence with the application. Moreover those documents do not meet the general and specific substantive requirements for documentary evidence set for in Sections 12 and 16 of the Sunrise Rules. Furthermore the extract from the DK Whois database clearly states that the data is provided for information purposes only without guarantee regarding its accuracy.

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Therefore the decision of the Repondent to reject the Domain Name application does not conflict with the Regulation 733/2002 and/or the Public Policy Regulation.