Panel Decision for dispute CAC-ADREU-002291

Case number	**CAC-ADREU-002291**
Time of filing	**2006-07-10 13:40:16**
Domain names	**barcelona.eu, frankfurt.eu**

Case administrator

Name	**Josef Herian**

Complainant

Organization / Name	**Traffic Web Holding**

Respondent

Organization / Name	**EURid**

FACTUAL BACKGROUND

The Complainant seeks review of the Panel decisions in cases ADR 394 FRANKFURT and 398 BARCELONA. The Panel found, in both of these cases that the Respondent had incorrectly accepted the Complainant's applications for "barcelona.eu" and "frankfurt.eu" on the basis of registered trademarks. In both case ADR 394 FRANKFURT and case 398 BARCELONA the Panel determined that the Complainant's Applications conflicted with Regulation 874/2004 and reversed EURid's decision.

In order to proceed this Panel must first ensure that it has appropriate jurisdiction to entertain what amounts to an appeal of the decisions of previous Panels. Article 22 of Regulation 874/2004 sets out when an ADR procedure may be initiated, namely where: (a) the registration is speculative or abusive within the meaning of Article 21; or (b) a decision taken by the Registry conflicts with this Regulation or with Regulation (EC) No. 733/2002.

A. COMPLAINANT

The Complainant seeks the annulment of the Registry's decision to reject the Complainant's application for the domain names "frankfurt.eu" and "barcelona.eu." The decisions of the ADR Panel in 2 June 2006 was to annul the initial acceptance of the claims and subsequently, EURid took the decision not to register the domain names. The Complainant contends that the decision by EURid is based on an incorrect interpretation of Article 11 of Regulation 874/2004.

B. RESPONDENT

The Respondent submits that there is no jurisdiction for this Application as Article 22 of Regulation 874/2004 only permits an ADR procedure according to the provisions of Article 22(1)(a) or (b).

DISCUSSION AND FINDINGS

This Panel only has jurisdiction to give a decision in this matter if the Complaint falls within one of the heads in Article 22(1), namely where (a) the registration is speculative or abusive within the meaning of Article 21; or (b) a decision taken by the Registry conflicts with this Regulation or with Regulation (EC) No. 733/2002. The Panel considers that the ADR procedure mandated by this provision is intended to operate solely in relation to speculative or abusive registrations, or where a

decision is made by the Registry that does not comply with the Regulations and that neither of these circumstances applies in relation to this Complaint. There is absolutely no provision made in the Regulation for an appeal procedure from the decisions of previous panels such as in ADR 394 and ADR 398.

To entertain the Complaint in these circumstances would be to create an appeal procedure without any mandate under Regulation 874/2004, or under the Sunrise Rules and would be a quite improper extension of this Panel's jurisdiction.

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	**Thibault Verbiest**

DATE OF PANEL DECISION 2006-10-19

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

Article 22(1)(a) and (b) set out the sole grounds on which ADR proceedings may be initiated in relation .eu domain names. The Article only covers circumstances where a registration is speculative or abusive, or a decision made by the Registry is non-compliant with the Regulations. There is no provision for an appeal from a previous panel's decision. Accordingly, this Panel finds that it has no jurisdiction to decide this Complaint.