Panel Decision for dispute CAC-ADREU-002325

Case number	CAC-ADREU-002325
Time of filing	2006-07-19 13:49:55
Domain names	glendimplex.eu

Case administrator

Name	Josef Herian

Complainant

Organization / Name	Glen Dimplex UK Limited, Mr Laurence George

Respondent

Organization / Name	Zheng Qingying

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

There are no other legal proceedings of which the Panel is aware that are pending or decided and that relate to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is Glen Dimplex UK Limited, a company registered in England. It is the manufacturer of household electrical appliances and has been trading in the EU since at least early 1977. It is a member of the Glen Dimplex Group of companies which trades worldwide. The Complainant's parent Irish company has subsidiaries in 7 other countries within Europe. The Complainant also has subsidiaries in 7 countries outside Europe, including China, Hong Kong, USA and Canada.

The Complainant is the registered proprietor of :-
a) the Benelux Trade Mark Registration No 793300 for the mark GLEN DIMPLEX ;
b) the UK Trade Mark Registration Nos 652391 and 831016 for the mark DIMPLEX; and
c) the Community Trade Mark Registration No 3874237 for the mark DIMPLEX.

The Glen Dimplex Group are also the owners of the domain names glendimplex.com, glendimplex.co.uk and glendimplex.de.

The Respondent filed for registration of the domain name glendimplex.eu. The Respondent claims to be domiciled in the United Kingdom but the application was filed through a registrar, Buycool Limited, based in Shenzhen, China and the Respondent has given a Chinese telephone number in their contact details on the Eurid database.

The Respondent has not filed any response to the Complainant's complaint.

A. COMPLAINANT

The Complainant contends as follows
a) the Respondent does not have any rights or legitimate interest in the GLEN DIMPLEX trade mark;
b) in accordance with Article 21(1) of EC Regulation No 874/2004, the domain glendimplex.eu is both identical and confusingly similar to the Complainant's registered trade mark rights established under both EU and national law;
c) because of the trading history of the Glen Dimplex Group of companies, it is reasonable to presume that the Respondent sought to register the disputed domain name to either direct prospective customers to a competing website, or for sale to another person and that either of these scenarios is evidence of bad faith; and
d) the registration of glendimplex.eu is an abusive registration and the domain should be transferred to the Complainant.

B. RESPONDENT

No Response or other communication has been received from the Respondent in respect of the Complaint.

DISCUSSION AND FINDINGS

The Respondent has failed to submit any Response to the Complaint. However, in accordance with Paragraph 10(a) of the ADR Rules, the Panel proceeds to a decision on the Complaint as follows.

It is the unanimous decision of the Panel that the Complainant has satisfied the criteria set out in Paragraph 11(d) of the ADR Rules and that the disputed domain name should be transferred to the Complainant.

The Complainant has established rights to the name GLEN DIMPLEX in respect of which a right is recognized or established by national law and/or Community law based on:-
a) the registered trademark rights to the marks GLEN DIMPLEX and DIMPLEX,
b) use in the company name of the Complainant, and
c) a long established goodwill in the use of both the trademarks and the name GLEN DIMPLEX in the UK and other countries throughout the world.

All of the Complainant's trademarks were registered prior to the Respondent's application for the domain name in dispute.

The Complainant is also the user of the domain name glendimplex.co.uk.

The disputed domain name glendimplex.eu is identical to the Complainant's Benelux registered mark GLENDIMPLEX and confusingly similar to the UK and Community registered mark DIMPLEX.

On the evidence made available to the Panel and in the absence of any Response from the Respondent, it would appear that the Respondent does not have any rights or legitimate interest to the disputed domain name. No evidence of use of the disputed domain name by the Respondent, whether in connection with the offering of goods and services or non commercial use, prior to or after registration has been filed by the Respondent. The Respondent is also not commonly known by the disputed domain name.

The Complainant has not produced specific evidence of registration or use of the disputed domain name by the Respondent in bad faith. However, given the distinctive character of the Complainant's mark, it is very unlikely that the Respondent coincidentally chose the domain name without reference to the Complainant's mark. Furthermore, the Respondent gives an address in the UK but its telephone contact number is in China, and the Complainant's group of companies have an established trading reputation in each of these countries. These circumstances together with the passive holding of the disputed domain name would infer registration or use 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 domain name GLENDIMPLEX be transferred to the Complainant

PANELISTS

Name	**James Bridgeman**

DATE OF PANEL DECISION 2006-10-20

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant is Glen Dimplex UK Limited, a company registered in England.The Complainant is the registered proprietor of :-
a) the Benelux Trade Mark Registration No 793300 for the mark GLEN DIMPLEX ;
b) the UK Trade Mark Registration Nos 652391 and 831016 for the mark DIMPLEX; and
c) the Community Trade Mark Registration No 3874237 for the mark DIMPLEX.

The Respondent filed for registration of the domain name glendimplex.eu.

The Complainant contended that
a) the Respondent did not have any rights or legitimate interest in the GLEN DIMPLEX trade mark;

b) the domain glendimplex.eu was both identical and confusingly similar to the Complainant's registered trade mark rights established under both EU and national law;
c) because of the trading history of the Glen Dimplex Group of companies, it was reasonable to presume that the Respondent sought to register the disputed domain name to either direct prospective customers to a competing website, or for sale to another person and that either of these scenarios is evidence of bad faith; and
d) the registration of glendimplex.eu was an abusive registration and the domain should be transferred to the Complainant.

No Response or other communication was received from the Respondent in respect of the Complaint.

In relation to these contentions the Panel held as follows:

a) The Complainant had established rights to the name GLEN DIMPLEX in respect of which a right was recognized or established by national law and/or Community law based on, inter alia, the registered trademark rights to the marks GLEN DIMPLEX and DIMPLEX,

b) The disputed domain name glendimplex.eu was identical to the Complainant's Benelux registered mark GLENDIMPLEX and confusingly similar to the UK and Community registered mark DIMPLEX.

c) On the evidence made available to the Panel and in the absence of any Response from the Respondent, it appeared that the Respondent did not have any rights or legitimate interest to the disputed domain name.

d) Whilst the the Complainant had not produced specific evidence of registration or use of the disputed domain name by the Respondent in bad faith, this could be inferred. Given the distinctive character of the Complainant's mark, it was very unlikely that the Respondent coincidentally chose the domain name without reference to the Complainant's mark. Furthermore, the Respondent gave an address in the UK but its telephone contact number was in China, and the Complainant's group of companies had an established trading reputation in each of these countries. These circumstances together with the passive holding of the disputed domain name inferred registration or use in bad faith.

e) It was the unanimous decision of the Panel that the Complainant satisfied the criteria set out in Paragraph 11(d) of the ADR Rules and that the disputed domain name should be transferred to the Complainant.