Panel Decision for dispute CAC-ADREU-002670

Case number	CAC-ADREU-002670
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Domain names	j4.eu

Case administrator

Name	Josef Herian

Complainant

Organization / Name	J 4 s.r.o.

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

None that the Panel is aware of

FACTUAL BACKGROUND

This Complaint arises out of the interpretation and application of Commission Regulation (EC) No 874/2004 of 28 April 2004 (“Regulation 874/2004”) and the .eu Registration Policy and Term and Conditions for Domain Name Applications made during the Phased Registration Period (hereinafter “the Sunrise Rules”).

Art. 10 (1) of said Regulation 874/2004 provides that holders of prior rights recognised or established by national or Community law shall be eligible to apply to register domain names during a period of phased registration before general registration of .eu domain starts, and that prior rights shall be understood to include, inter alia, registered national and community trademarks.

Art. 12(3) of said Regulation 874/2004 provides that the request to register a domain name based on a prior right shall include a reference to the legal basis in national or Community law for the right to the name, as well as other relevant information, such as trademark registration number.

Recital 12 of said Regulation 874/2004 sets out the purpose of the phased registration period in the following terms:

“In order to safeguard prior rights recognised by Community or national law, a procedure for phased registration should be put in place. Phased registration should take place in two phases, with the aim of ensuring that holders of prior rights have appropriate opportunities to register the names on which they hold prior rights. The Registry should ensure that validation of the rights is performed by appointed validation agents. On the basis of evidence provided by the applicants, validation agents should assess the right which is claimed for a particular name. Allocation of that name should then take place on a first-come, first-served basis if there are two or more applicants for a domain name, each having a prior right.”

The Sunrise Rules govern all applications during the phased registration period (vide Object and Scope).

Section 3.1 (1) of the Sunrise Rules states that an application is only considered complete when the Applicant provides the Registry, via a registrar, with at least the following information.

Section 11 (1) of the Sunrise Rules provides that "[d]uring the first phase of the Phased Registration Period, only Domain Names that correspond to (i) registered Community or national trade marks or (ii) geographical indications or designations of origin, may be applied

for by the holder ...of the Prior Right concerned…"

Section 13 (1) (ii) of the Sunrise Rules provides that "[w]here the Prior Right claimed by an Applicant is a registered trademark, the trade mark must be registered by a trade mark office in one of the member states, the Benelux Trade Marks Office or the Office for Harmonisation in the Internal Market (OHIM), or it must be internationally registered and protection must have been obtained in at least one of the member states of the European Union."

Section 11 (3) the Sunrise Rules, the Applicant for a domain name must be the owner or licensee of the claimed Prior Right.

The Complainant is a limited commercial partnership engaged in the manufacture and trade of security and control systems, duly incorporated in Czech Republic within the European Community and is the registered owner of the Czech Trademark 211959 “J4” which has been registered on the 25th August 1998 in the Office for Industrial Property of the Czech Republic and which is valid until 3rd April 2007.

On 7 December 2005, the Applicant applied to register the domain name <J4.eu> during Phase I of the phased registration period.

In support of its application under the Sunrise Rules, the Complainant relied inter alia on said Czech Trademark No. 211959 “J4” as establishing its Prior Right. The Complainant's ownership of said trade mark registration is not in dispute and the Complainant has submitted documentary evidence of said registration in the form of a copy of the original Trade Mark certificate in its possession. What is disputed is whether the documentary evidence submitted clearly evidences that the Trade Mark bestows prior right, since the Validation Agent interpreted a chevron pattern on the figurative trademark as the alphanumeric character “v”.

The Complainant submits that the domain name and the trade mark on which it claims a Prior Right are absolutely identical and that the Validation Agent “must have been confused by the Documentary evidence submitted”. This is disputed by the Respondent who insists that the Trademark is for “VJ4” and not “J4”.

The Respondent refused to register the domain name <J4.eu> in the name of the Complaint during the Sunrise Period on the grounds that the documentary evidence furnished did not substantiate that the applicant for the domain name is the holder of the Prior Right on the domain name.

A. COMPLAINANT

The Complainant contends that the denomination corresponding to the disputed domain name was the same as the one included in the trademark registration certificate included in the documentary evidences filed before the Respondent. In this respect, the Complainant additionally considers that the Respondent when denying its application must have been confused by the documentary evidences filed in support of its application for registration of the disputed domain name. The Trade mark establishing prior rights is a combined type trade mark which means the trade mark consists of both wording and picture. According to the trademark registration certificate the wording of the trade mark is „J 4“ which is fully corresponding to the disputed domain name. In the situation described above there was no legal reason for denying complainant`s application and according to First Come, First Served Principle the domain name should be granted to the complainant.

In a Non-standard Communication of the 10 October 2006, one reads that the Complainant further alleged that “the Response is based on a false presumption, that a combined trade mark is composed of the sign solely and that its verbal part merely describes the sign. However, under Czech law, a combined trade mark is composed of two parts (and therefore it is called “combined”): (i) the sign and (i) the text wording, whereas both parts are equivalent. Such combined trade mark must be distinguished from a graphical trade mark (which can also be registered under Czech law); where graphical trade mark is represented only by the sign and its registered text wording only describes the sign and is therefore not decisive.”

B. RESPONDENT

The Respondent’s lengthy response may be condensed into the single argument that the Complainant’s Trade mark consists of the following three letters: „V“, „J“ and „4“ and according to Section 19 (1) of the „Sunrise rules“, it is not possible for the Complainant to obtain registration of a Domain Name consisting of the letters „J“ and „4“ only.

The Respondent’s arguments are reproduced in detail when considered point by point in the section Discussion and Findings below.

DISCUSSION AND FINDINGS

When considering the response advanced by the Respondent, one notes that the first three paragraphs contain no reasoning or

argumentation but merely a correct restatement of the applicable regulations:
”Article 10 (1) of Commission Regulation (EC) No 874/2004 of 28 April 2004 (hereafter "the Regulation") states that only holders of prior rights which are recognised or established by national or Community law shall be eligible to apply to register domain names during a period of phased registration before general registration of .eu domain starts.
Article 10 (2) of the 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 right exists.
Section 19 (2) of the Sunrise Rules states that a prior right claimed to a name included in figurative or composite signs (signs including words, devices, pictures, logos, etc.) will only be accepted if the sign exclusively contains a name or if 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 applied for, in the same order as that 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".

The next paragraph in the Response to complaint purports to be a statement of fact “J4 s.r.o. (hereafter "the Complainant") applied for the domain name J4 on 7 December 2005. The documentary evidence was received on 20 December 2005, which was before the 16 January 2006 deadline. The Complainant submitted as documentary evidence a certificate of registration for a figurative Czech trademark (n° 211959). As the figurative trademark consisted of the signs VJ4 and not only of J4, the validation agent concluded from its examination of the documentary evidence that the Complainant did not demonstrate that it was the holder of prior right on the name J4. Consequently, the Respondent rejected the application for the domain name J4.”

This is where the Panelist turned to the documentary evidence submitted to check for himself whether the purported statement of fact was indeed borne out by what the Respondent had accepted had been presented on time. The figurative Czech trademark appears to consist of a J4 on a shield on which there is also a chevron. The chevron is a symbol which comes from antiquity and has been used on shields especially in heraldry for centuries. Chevrons are v-shaped patterns which can be used pointing up or pointing down. Perhaps the best way to explain that a chevron should not be confused with an alphanumeric character is to take a few seconds to use an on-line dictionary such as Wiktionary to better understand the definition and usage:

“A chevron (also spelled cheveron, especially in older documents) is a V-shaped pattern.
The word is usually used in reference to a kind of fret in architecture, or to a badge or insignia used in military or police uniforms to indicate rank or length of service, or in heraldry and the designs of flags (see flag terminology). The origin seems to be the shape of the rafters of a building. In British Military usage, the idea of using chevrons to denote rank came from whereabouts NCOs were placed in the line in infantry units. In Napoleonic times, units would form up in large, uniform blocks. Lance Corporals (and equivalents) would have marked the corner of a fire team, Corporals the corner of a squad, and Sergeants the corner of a Platoon. This led to the stylised drawing of different numbers of right angles on the sleeves, to denote corners. Over time these turned into the stylised chevrons worn today.
In areas observing Commonwealth of Nations or United States doctrine, chevrons are used as an insignia of enlisted or NCO rank by land military forces and by police. One chevron usually designates a private, two a corporal, and three a sergeant. One to four "rockers" may be also be incorporated to indicate various grades of sergeant. In American usage, chevrons typically point up, or on shoulderboards towards the neck; in Commonwealth usage (and in the U.S. Navy and U.S. Air Force), they usually point down, or on shoulderboards away from the neck.

Small chevrons are part of the insigna to indicate length of time serving in some armies. They are worn on the lower left sleeve.

They are also used as road markings in some stretches of British and Canadian motorways, to help drivers gauge the distance to the car in front, and also on signs on sharp corners in order to denote the tightness of the bend…

The usage of the chevron is wide, frequent and varied in many cultures:
“…The French automobile firm Citroën uses a logo commonly referred to as a pair of chevrons, though it originates in the shape of the teeth of special type of gears which that firm made prior to its entering the car business.

The British television company Yorkshire Television used a Y-shaped symbol known as "the chevron" as its logo, from when its broadcasts began in July 1968 until the company was absorbed into the newly-formed ITV plc in February 2004.

In the Stargate science fiction universe, the outer ring of the Stargate device feature nine chevrons. In normal use, seven chevrons lock in to place as a destination Stargate is dialed.

The Chevron Corporation's logo is a pair of chevrons, one blue and one red.

In the Microsoft Windows operating system, the name "chevron" is used for a menu that contains the toolbar icons which do not fit in the space available on the toolbar.

Boeing calls some of its afterburner jets "variable-geometry chevrons".

As a part of punctuation, chevrons (also known as guillemets or angle quotes) usually act as quotation marks, particularly in Spanish and French. Examples would be ‹single quotes› and «double quotes». In German they are used as well, but in inverted form: ›single quotes‹ and »double quotes«. Chevrons are also used in Chinese punctuation, often to enclose the titles of books: and or and for traditional vertical printing, and and or and for horizontal printing."

Moreover, to pick up on the use of chevrons as part of punctuation, anybody familiar with Czech culture would know that the chevron is used widely in the Czech language. In much the same way as, for example, a dot is used over g and c in the Maltese language, in Czech, the chevron over c, s, and z produces ch, sh, and zh respectively and produces a special alphanumeric composite character in Czech but NEVER in conjunction with a J and when pointing up or down, not as an alphanumeric character in its own right which had been given attention in the guidelines put out by PWC unlike hyphen or ampersand (used for space or "and" respectively. Chevron is neither alpha nor is it numeric)

While the Validation Agent could possibly be forgiven for not knowing of the use of the chevron in, say, the Czech language, on the other hand, as has been pointed out above, the chevron is so widely used in a variety of ways in everyday life in different cultures that it is difficult to believe that the Validation Agent had never met such a ubiquitous pattern to the extent that he/she would resolutely take it for an alphanumeric character despite the fact that it is not the same size or adjacent to the J on the shield which is part of the figurative trademark registered by the complainant. Indeed, such would be the degree of cultural dysfunction that such a conclusion would be almost incredible. To then ignore the corroboratory evidence presented on the same registration certificate which explicitly stated in two different places that the Trademark in word form is "J4" may possibly border on the negligent. For, anybody familiar with the strict approach taken by most Patent and Trade Mark attorneys would clearly hold that had the intention been to register a trademark of "VJ4", this would have resulted in the section of "normalized word" being "VJ4" and NOT "J4" as clearly evidenced by the trademark certificate presented on time by the Complainant.

The importance of the trademark certificate cannot be underestimated since, in two separate places on the documentary evidence presented, one reads

"Wording=J 4"

And again

"wording – normalised =J4"

Which, meets (and possibly exceeds) the standards established in Regulation 19 (2) and removes a "reasonable possibility of misreading the characters of which the sign consists or the order in which those characters appear".

Once the pattern on the figurative trademark is interpreted as a chevron and not as a "V" as claimed by the Respondent, the Respondent's case falls apart. Examining it on a point by point basis the Panelist finds that:
"The Complainant argues that the figurative trademark consisted of the signs J4 and to this extent refers to the word description of the figurative trademark which states that the word transcription of the trademark is J4. The Complainant therefore requests that the Respondent's decision be annulled and that the domain name be transferred to the Complainant.

3.1 The burden of proof was with the Complainant to demonstrate that it is the holder or the licensee of a prior right
Article 10 (1) of the Regulation states that only the holders of prior rights shall be eligible to apply to register domain names during the period of phased registration.
Pursuant to article 14 of the Regulation, the applicant must submit documentary evidence showing that he or she is the holder of the prior right claimed on the name in question. Based on this documentary evidence, the validation agent shall examine whether the applicant has prior rights on the name.
It is therefore of crucial importance that the Respondent is provided with all the documentary evidence necessary for it to assess if the applicant is indeed the holder of a prior right.
The burden of proof was thus on the Complainant to substantiate that it is the holder or the licensee of a prior right (see for example

cases 127 (BPW), 219 (ISL), 294 (COLT), 551 (VIVENDI), 984 (ISABELLA), 843 (STARFISH), 1931 (DIEHL, DIEHLCONTROLS)).
As the panel clearly summed up in case ADR 1886 (GBG), "According to the Procedure laid out in the Regulation the relevant question is thus not whether the Complainant is the holder of a prior right, but whether the Complainant demonstrated to the validation agent that it is the holder of a prior right. If an applicant fails to submit all documents which show that it is the owner of a prior right the application must be rejected".
3.2 The documentary evidence did not demonstrate that the Complainant was the holder of a prior right "

While the Panelist has no problem with the argument presented in 3.1 i.e that the burden of proof was on the Complainant, with all due respect to the Respondent, the statement in 3.2 is false. The documentary evidence presented is perfectly adequate to show that the Czech company J4 is the owner of a prior right. It is apparently the Validation Agent's failure to recognize a chevron on a shield and instead mistake it for the alphanumeric character V that appears to be the root of the problem. This failure was then compounded by failing to give due weight to the other qualifying parts of the documentary evidence presented, where it clearly and unequivocally is stated that the word component of the figurative trademark is "J4".

The Respondent again extensively quotes the regulations:
"Article 10 (2) of the Regulation states that a domain name applied for during the Sunrise Period must consist of the complete name of the prior right on which the application is based.
Section 19 (2) of the Sunrise Rules further clarifies article 10 (2) of the Regulation for figurative or composite signs (such as the composite trademark in casu):
"Documentary evidence must clearly depict the name for which a prior right is claimed. A prior right claimed to a name included in figurative or composite signs (signs including words, devices, pictures, logos, etc.) will only be accepted if
(i) the sign exclusively contains 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 applied for, in the same order as that 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". Pursuant to section 19 (2) of the Sunrise Rules, the Respondent has to separate the alphanumerical elements from the device elements. The domain name based on this prior right must consist of all alphanumerical elements, disregarding only the device elements. "

but then persists with the mistake of fact "In casu the figurative trademark clearly consists of three characters: "V", "J" and "4", surrounded by a frame in the form of a shield." On the contrary, it is not at all clear that such is the case and indeed the figurative trademark may be much more accurately described as being "a representation of a shield on which there appears a chevron in the upper right hand corner and J4 in the centre".

The Respondent continues to base its argument on the mistake of fact "This trademark is therefore comprised of the following alphanumerical elements: "V J 4". Consequently, pursuant to section 19 (2) of the Sunrise Rules, this trademark could not serve as a prior right on the sign J4 alone. " Having resolutely decided that a pattern which was not of the same size nor adjacent to the J was a V and not a chevron, the Respondent insists that "As the Complainant applied for the domain J4 (and not for the domain name which corresponds to the complete name for which the prior right exists, i.e. VJ4), the Respondent had no other option than to reject the Complainant's application for the domain name J4."

The Respondent then attempts to persuade the panelist by referring "to the very similar case Nr 470 (O2). In this case, the applicant applied for the domain name "O2", on the basis of a French Trademark consisting of a composite sign including words and devices, and more specifically the stylized characters "O2" accompanied, on the right side, by the stylized words (slogan) "l'oxygène de votre quotidien". The Panel decided that: "all alphanumeric characters of the composite sign invoked by Complainant (i.e. the French Trademark), are not contained in the domain name "O2". Indeed, the words (slogan) "l'oxygène de votre quotidien" are part of the composite sign, namely the French Trademark, but do not appear in the domain name Complainant applied for. Accordingly, the decision taken by Registry to reject the "O2" domain name application does not conflict with the Regulation 874/2004".
The Respondent also refers the Panel to the ADR decisions 1053 (SANTOS), 1438 (ELLISON) and 713 (HUETTINGER). "

This Panelist finds however that this reference is however completely irrelevant since it refers to an alphanumeric sign. A chevron is NOT an alphanumeric sign but is a pattern and not even in the Czech language can it never be mistaken as part of an alphanumeric sign when associated with the letter J.

The Respondent then goes on to consider that "the Complainant refers to the word description of the figurative trademark, which the

Complainant asserts is J4 and not VJ4. Even if it were true that the word description of the figurative trademark is J4 rather than VJ4, such word description would not be helpful in the present case. Indeed, such word description does not negate the fact that the "true" trademark is the figurative representation and not the word description. In casu there thus would be a clear conflict between the figurative trademark itself, which clearly consists of "V J 4" (this is moreover not denied by the Complainant), and the word description. “ Once again, this Panelist finds that this argument is false since the figurative trademark represents a chevron on a shield on which there is J4 and does not consist of “VJ4” as claimed by the Respondent. Moreover, nowhere in the proceedings has the Complainant ever accepted the Respondent’s argument that the pattern on the shield is a V.

The Respondent then argues that “The Panel must only assess whether the Respondent decision conflicts with the Regulation (article 11 of the ADR Rules). The Regulation states clearly that all alphanumerical characters of a figurative trademark must be included in the domain name applied for. Conversely, the Regulation does not mention at all that the word description of the figurative trademark may be taken into account when assessing the figurative trademark. In view of the clear-cut text of the Regulation, the Respondent would be in violation of the Regulation if it would have taken into account the word description of the figurative trademark, rather than the figurative trademark itself. Hence, the Respondent had no other choice than to reject the domain name application for the incomplete transcription of the figurative trademark. “

This Panelist finds that this argument is based on the false premise that the chevron on the shield is an alphanumerical character and that the Validation Agent failed to recognize this ubiquitous pattern as such and furthermore failed to use the qualifying word description to realize this omission.

Finally, the Respondent attempts to argue that “The Regulation and the Sunrise Rules give holders of prior rights the opportunity to demonstrate their prior rights during the phased registration, which is an exception to the basic principle of first-come first-served. In order to benefit from this opportunity to demonstrate its prior rights, the applicant must comply with the strict procedure laid out by the Regulation for dealing with the thousands of applications received during the phased registration and making sure that these applications are substantiated. The Complainant in the present case did not seize this opportunity, because its application did not correctly fulfil the substantial requirements.
Any right given to the Complainant to correct its defective application at this stage of the procedure would clearly be in breach of the Regulation and the Sunrise Rules, as expressed among others by the Panels in ADR 706 (AUTOWELT) and 1710 (PARLOPHONE, EMI, EMIMUSIC, EMIRECORDS, ANGEL, THERAFT). As the Panel in case n° 219 (ISL) stated: "One could argue that sympathy is overruled by the applicable Regulations serving among other purposes the (cost-effective) functionality of the phased registration and the principles hereof". In case n° 1627 ("PLANETINTERNET"), the Panel agreed with the Panel in ISL and further explained that "the Regulations and the Sunrise Rules were clearly drafted to ensure a fair distribution of .eu domain names during the phased period and if an applicant fails to fulfil its primary obligations, then, even where such failure is due to an oversight or genuine mistake, the application must be rejected by the validation agent".

This latter statement by the Respondent is false since the documentation submitted was perfectly adequate to “correctly fulfil the substantial requirements”. Here one is not dealing with (as claimed by the Respondent) the Complainant’s “right to correct its application at this stage” but rather an attempt to correct the mistake made by the Validation Agent on whom the Respondent relied. It already tests the limits of credibility that human beings assaulted at every turn by chevron patterns, whether, say, on military uniforms on TV and real life, in continuous advertisements by Citroen cars, or on the roads in many motorways in Britain or on the continent, etc. would mistake an ancient heraldic pattern such as a chevron on a shield for an alphanumeric character. To then ignore the rendering in word form compounds the mistake.

The Respondent goes further and argues that “This consideration is particularly important in the present case since upon the rejection of the domain name application of the Complainant, the Respondent examined the domain name application of the next in queue, Fashion Park S.r.l. and accepted this domain name application. As explained in 1614 (TELENET): "when there is a queue of applicants a priori entitled to the domain name, it would appear improper if the Validation Agent carried out investigations to help an applicant when that applicant did not fulfill its duties (…) every applicant in the queue has a legitimate expectation to obtain the domain name and therefore, the observance of the application requirements must be strict. This Panel shares the view of the NAGEL case that the principle first-come, first-served is more properly described as "first-come-and-substantiate, first-served" (case no. 00119 NAGEL)". Since the Respondent correctly decided to reject the Complainant's application, pursuant to the Regulation, Respondent's decision may not be annulled and the domain name J4 may not be granted to the Complainant. Indeed, a domain name may only be attributed to the Complainant by this Panel, when the Panel finds that the Respondent's decision conflicts with the Regulation (article 11 of the ADR Rules). "

The Panelist finds that the Respondent's decision conflicts with the Regulation Art 11 since the Complainant's application was perfectly in order and was the first valid application to be received. Furthermore, the consideration that the Respondent went on to allocate the

domain name to the next in queue should have no bearing on the facts of the case if the respondent was wrong to reject the complainant's application in the first place. Finally, the citation of the decision above only strengthens the findings of this Panelist. Even if one were to accept the interpretation that "first-come-and-substantiate, first-served" since the Panelist finds that J4 had submitted documentary evidence which a priori established a prior right, then it may be said to be the first to have substantiated.

Thus the Respondent fails to answer satisfactorily to the complaint and the Complainant's request should be accepted.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panelist orders that the EURID's decision be annulled and the domain name <J4.eu> be transferred to an registered in the name of J4 s.r.o. registered in the Czech Republic.

The above order by the Panelist regarding registration of the domain name <J4.eu> is explicitly given since the complainant has sought a direction pursuant to Section 27 of the Sunrise Rules that the Respondent's decision be revoked and the panel allocate the Domain Name to the Complainant. In point of fact, Section 27 (1) of the Sunrise Rules states:

If the ADR Proceeding concerns a decision by the Registry not to register a Domain Name and the Panel or Panelist appointed by the Provider concludes that that decision conflicts with the Regulations, then, upon communication of the decision by the Provider, the Registry will register the Domain Name in the name of the Applicant and will immediately activate the Domain Name.

There existing no prohibition of the panelist's powers to give such direction, nor any uncertainty as to the Registry's obligation to so register and activate the Domain name pursuant to communication of this decision, the Panelist formally further orders immediate activation of the Domain Name subsequent to registration.

PANELISTS

Name	**Joseph André Cannataci**

DATE OF PANEL DECISION 2006-10-21

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The complainant challenged the rejection of its domain name application by the registry. Although the complainant was the first applicant for the domain name <J4.eu> and submitted the proof of a Czech trademark registration in time, the registry rejected the application.

The Trade mark on the trade mark registration certificate was explicitly designated as being "J4" in word form while the figurative design consisted of "J4" superimposed on a shield also containing a chevron pattern (a device often used on shields in heraldry and other design motifs). The Validation Agent apparently mistook the chevron pattern for a "V", and, disregarding the clear qualification made in the same trademark certificate, arbitrarily declared that the Trade Mark certificate presented was for "VJ4" and not "J4". The registry followed the findings of the Validation Agent and took the view that the complainant did not prove its prior right to "J4".

Finding that the figurative trademark contained a chevron pattern rather than a V, corroborated by the clear qualification contained on the Trademark certificate stating that the Trademark in word form is "J4", the Panelist therefore annulled the registry's decision, as the proof of prior right was valid, produced in good time and is sufficient for an applicant to become the holder of a .eu domain name. The Panelist therefore ordered the transfer of the domain name "J4.eu" to the Complainant and the immediate activation of the domain name "J4.eu"