Panel Decision for dispute CAC-ADREU-002728

Case number	**CAC-ADREU-002728**
Time of filing	**2006-08-25 09:17:26**
Domain names	**casinobet.eu, pokergameonline.eu, pokerguide.eu, webcasino.eu**

Case administrator

Name	**Josef Herian**

Complainant

Organization / Name	**Gabino Limited, ADR Manager**

Respondent

Organization / Name	**EURid**

FACTUAL BACKGROUND

The Complainant, the Cyprus company Gabino Limited applied for the registration of the domain names “casinobet.eu”, “pokergameonline.eu”, “pokerguide.eu” and “webcasino.eu”.

On July 20, 2006, Eurid blocked several domains names amongst which the contentious domain names.

On August 25, 2006 the Complainant filed its complaint and requested the panel to order to Eurid to provide copies of all documents and other items used, referred to or relied upon in connection with Eurid’s decision. The complainant requested also the panel to be allowed to file a Rejoinder to respond to the documents and to annul the Eurid’s decision such that the contentious domain names are all returned to active status.

On, October 20, 2006 the Respondent filed its response requested the panel to annul the decision held on July 20, 2006.

A. COMPLAINANT

In support of its position, the Complainant contends as follows:
- The Complainant is entitled to commence this ADR proceedings and Eurid’s participation in this ADR proceedings is compulsory.
- The Complainant properly registered the domain names
- The Eurid’s decision to block the domain names was arbitrary, undertaken without notice and violates the regulations
- Eurid’s action against the 400 registrars cannot justify Eurid’s decision vis-à-vis the domain names

EURid’s unilateral decision to put the Domain Names on hold, without prior notice to Complainant and without instituting an ADR proceeding, is in conflict with the Regulations and the policies expressed therein.

The arbitrary and inappropriate nature of EURid’s action is illustrated in Complainant’s rebuttal of allegations made in the Press Release: First, Complainant

registered the Domain Names using registrars that were accredited by EURid. Complainant complied with all eligibility requirements and has paid all amounts due relative to the registrations. Complainant did not register the Domain Names with any intent to sell them to anyone else and following registration it has actively used the Domain Names.

Without any prior notice, EURid has violated Complainant's rights in the Domain Names. Only after issuing the press release did EURid make any effort to contact Complainant. That contact provided no information other than confirming that EURid had unilaterally "blocked" the Domain Names for an indefinite period. No other information was provided and no other information has been forthcoming. Attempts to contact EURid have gone without any response.

Complainant has been left to guess as to whether its Domain Names are included in the 74,000 domain names that were the subject of the press release. Even if Complainant's Domain Names have somehow become included in the domain names referenced in the press release, such cannot provide a basis for EURid's conduct herein. Complainant is not a registrar. Complainant is an independent legal entity and is not owned, operated by or otherwise controlled (nor does it control) any registrar accredited by EURid. Complainant's rights in the Domain Names have been materially infringed upon by EURid without notice or legal basis. There is no legal or factual basis for treating it as somehow identical to, or acting for, the registrars referenced in the press release and such unfounded allegations usurp Complainant's rights in the Domain Names without due process and in violation of the Regulations.

B. RESPONDENT

In late July 2006, the Respondent decided to initiate judicial proceedings at the Court of First Instance of Brussels against the registrars via whom the Complainant and two other Cypriot companies had registered the contentious domain names.

By decision of 27 September 2006, the President of the Court of First Instance of Brussels stated that the judicial proceedings directed against the registrars did not entitle the Respondent to block domain names registered by the registrants. Thus, the President ordered the Respondent to release the blocked domain names.

The Respondent has immediately unblocked all the domain names with the exception of a very small number of domain names that are the subject of an ADR procedure. Theses domain names must remain blocked, not because of the initiation of a judicial proceeding but because of the initiation of an ADR proceedings pursuant to article 22 (6) of the Regulation and article 9(3) of the Terms and Conditions. The Respondent must block any domain names that are subject to an ADR proceedings.
The Respondent will no longer block the contentious domain names once the ADR proceeding has been terminated.

DISCUSSION AND FINDINGS

By decision of September 27, 2006, the President of the First Court of Instance of Brussels ordered the Respondent to release the blocked domain names amongst which the contentious domain names.

Pursuant to 4)c) of the ADR rules, "the Panel shall terminate the ADR proceeding if it becomes aware that the dispute that is the subject of the Complaint has been finally decided by a court of competent jurisdiction or an alternative dispute resolution body".

To the extent that the President of the First Court of Instance of Brussels has already stated on the question to know whether Eurid has rightfully blocked notably the contentious domain names, there is no reason for the Panel to decide further on this matter.

Therefore, the Panel decides to terminate the case.

DECISION

For all the foregoing reasons, in accordance with Paragraphs A 4 (c), B12 (b) and (c) of the Rules , the administrative proceedings is terminated.

PANELISTS

Name	**Nathalie Dreyfus**

DATE OF PANEL DECISION 2006-11-24

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

Eurid decided to block the contentious domain names.

By decision held by the First Court of Instance of Brussels, Eurid be ordered to release the contentious domain names.

Therefore, and pursuant to 4)c) of the ADR rules, the administrative proceedings is terminated.