Panel Decision for dispute CAC-ADREU-003116

Case number	CAC-ADREU-003116
Time of filing	2006-09-26 11:09:50
Domain names	schein.eu

Case administrator

Name	Josef Herian

Complainant

Organization / Name	Henry Schein, Inc., .

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

There are no other legal proceedings.

FACTUAL BACKGROUND

The Complainant requested annulment of the registration of the domain name “schein.eu”, which was registered for the Applicant, the company “Schein Orthopaedie Service KG". The domain name was registered in the Sunrise Period on the basis of the Applicant’s company name.

A. COMPLAINANT

The Complainant contends that the disputed domain name “schein.eu” was registered contrary to the Article 10(2) of the Commission Regulation (EC) No. 874/2004, of 28 April 2004, because the disputed domain name does not correspond to the company name, which was the basis for the registration of the domain name in the Sunrise Period.

B. RESPONDENT

The Respondent agrees that there was no legal basis for the registration of the disputed domain name on behalf of the Applicant in the Sunrise Period.

DISCUSSION AND FINDINGS

The Commission Regulation (EC) No 874/2004 in Article 10(2) provides that the registration of the domain name in the Sunrise Period on the basis of a prior right shall consist of the complete name for which the prior right exists, as written in the documentation which proves that such a right exists.

The Panel agrees with the Parties that the Applicant’s company name, which was the sole basis for the registration of the disputed domain name, cannot be a basis for the registration of the disputed domain name in the Sunrise Period. The Applicant’s company name, trade mark or other basis for registration of the domain name has to completely correspond to the domain name for which the application was made. The only exceptions in this respect are provided in Article 10(3) and are applicable for public bodies, not for private companies.

In this case the Applicant’s company name (Schein Orthopaedie Service) does not correspond to the disputed domain name (Schein). The Regulation is clear and cannot be construed so that would allow the registration of disputed domain name on the basis of Applicant’s company name.

The registration of the domain name was therefore not made according to the Article 10(2) of the Commission Regulation (EC) No 874/2004 and has to be annulled.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the EURID's decision be annulled.

PANELISTS

Name	**Blaz Mrva**

DATE OF PANEL DECISION 2006-12-18

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant requested the annulment of the registration of the domain name “Schein.eu” which was registered in a Sunrise Period on request of the Applicant »Schein Orthopaedie Service KG« and on the basis of its company name.

The Complainant contended that the company name of the Applicant cannot be the basis for the registration of the disputed domain name in the Sunrise Period, as the Article 10(2) of the Commission Regulation (EC) No 874/2004) allows only registration of a domain name which completely corresponds to the name for which the prior right exists.

The Respondent agreed.

The Commission Regulation (EC) No 874/2004 in Article 10(2) provides that the registration of a domain name in the Sunrise Period can only be made for the names for which the prior right exists and that the name, which is the basis for the registration, has to fully correspond to the domain name in question. In this case the prior right exists for a company name »Schein Orthopaedie Service KG«, therefore only the domain name »schein-orthopaedie-service.eu« or a similar domain name could be registered on the basis of the Applicant’s company name.

The Panel therefore agrees with the Parties that the Applicant’s company name, which was the sole basis for the registration of the disputed domain name, cannot be the lawful basis for the registration of the disputed domain name in the Sunrise Period.

As the registration was not made according to the Article 10(2) of the Commission Regulation (EC) No 874/2004, it had to be annuled.