Panel Decision for dispute CAC-ADREU-003368

Case number	**CAC-ADREU-003368**
Time of filing	**2006-10-16 12:14:02**
Domain names	**bbcentrum.eu**

Case administrator

Name	**Tereza Bartošková**

Complainant

Organization / Name	**BB C - SERVICES, s.r.o., Mgr. Irena Vaňková**

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 claims to be holder of a number of registered Czech national trademarks related to the mark “bbcentrum”. The Complainant further claims to operate a well-known business and administration center under the mark “BBCENTRUM” in Prague, the Czech Republic. The trademark rights constitute in the opinion of the Complainant a prior right in sense of Article 10 (1) of the Commission Regulation (EC) No 874/2004. The Complainant further states that based on the Czech national trademark No. 273029, he applied for registration of domain name “bbcentrum.eu” on 19th January 2006. The registration was rejected, as EURid informed the Complainant on 5th July 2006 that the trademark on which the domain name registration was based did in fact not correspond to the applied for domain, i.e. the “bbcentrum”. The Complainant did not attack the said decision with any remedies available. Then, the Complainant applied for the registration of the domain “bbcentrum.eu” on 29th August 2006. The domain “bbcentrum.eu” has been already registered for the Respondent. The Complainant claims the domain name be transferred to him.

A. COMPLAINANT

The Complainant claims to be holder of registered Czech national trademarks as per the attached annexes to the complaint, which in his opinion constitute prior rights in sense of Article 10(1) of the Commission Regulation (EC) No 874/2004. Based on the Trademark No. 273029, the Complainant applied for registration of domain “bbcentrum.eu” on 19th January 2006, which registration was rejected, since the EURid informed the Complainant on 5th July 2006 that the applied for domain bbcentrum had not corresponded to the underlying registered trademarks, which read B BB Centrum, which in fact prevented the claim be based on that trademark registration. Following this refusal, the Complainant used, in his own words, the very first opportunity and applied for the registration of the domain “bbcentrum.eu” on 29th August 2006. Unfortunately for the Complainant, the domain bbcentrum was in the meantime already registered for the Respondent.

The Complainant claims that according to Articles 21 (1) and (3) of the Regulation, a registered domain shall be subject to revocation where that name (registered as domain) is identical to a name in respect of which a prior right is recognised by national and/or Community law, where it has been registered in bad faith, namely primarily for the purpose of selling, renting or otherwise transferring the domain name to the holder of such a prior right”.

The Complainant claims that the domain name “bbcentrum.eu” registered by the Respondent is identical to the name “BB Centrum” in respect of which the Complainant’s Czech national trademarks Nos. 234420 and 261667 are registered under the Czech law in the respective public trademark registry. The Complainant, a company of PASSERINVEST GROUP is further the holder of Czech level

“bbcentrum.cz” domain which is actively used (as well as the .eu domain was intended to be used) for business purposes of well-known Prague business and administrative centre called “BB Centrum” developed and operated by PASSERINVEST GROUP since 1992.

The Complainant further claims that he learnt from the unofficial information of EURid (however not confirmed or supported by evidence), that the registrar in this case registered more than 10 thousands of domains, allegedly all for the Respondent. The Complainant believes that these registrations, including the registration of “bbcentrum.eu” domain, are purely speculative.

The Complainant claims that the “bbcentrum.eu" domain is actually not used by the Repondent, or otherwise.

For all the foregoing reasons, the Complainant requests that the ADR procedure be initiated by the ADR provider and the domain name “bbcentrum.eu” transferred to the Complainant since the Complainant already applied for the registration of this domain name and has satisfied the general eligibility criteria set out in Article 4(2)(b) of Regulation (EC) No 733/2002.

B. RESPONDENT

The panel again notes that the Respondent did not respond to any of the Complainant submissions. Further, the Respondent fully ignored all notifications as provided by the Court and did not present any statements to the Complainant’s allegations (factual or legal).

DISCUSSION AND FINDINGS

The panel notes that the Respondent did not react to any of the Complainant submissions. The Respondent fully ignored all notifications as provided by the Court and did not present any statements to the Complainant’s allegations (factual or legal).

The panel has scrutinized the claims and rights asserted by the Complainant and they proved to be correct. The Complainant is owner of prior Czech national trademarks Nos 234420 and 261667 both of which are validly registered and enjoy full legal protection in the Czech Republic and thus these rights constitute valid prior rights within the meaning of the Commission Regulation (EC) No 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the.eu Top Level Domain and the principles governing registration, namely Article 21, under which a registered domain name shall be subject to revocation, using an appropriate extra-judicial or judicial procedure, where that name is identical or confusingly similar to a name in respect of which a right is recognized or established by national (i.e. the Czech law in this case) and/or Community law, such as the rights mentioned in Article 10(1) of the Regulation, and where it has been registered by its holder without rights or legitimate interest in the name, or it has been registered or is being used in bad faith.

It has been further proved that the Complainant is a member of a structure operating the BB Centrum in Prague, the Czech Republic, for which a web site under the www.bbcentrum.cz domain is operated.

Regarding the bad faith claims as presented by the Complainant, it is to be noted that bad faith may be demonstrated, where circumstances indicate that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the holder of a name in respect of which a right is recognized or established by national and/or Community law or to a public body, or the domain name has been registered in order to prevent the holder of such a name in respect of which a right is recognized or established by national and/or Community law, or a public body, from reflecting this name in a corresponding domain name, provided that a pattern of such conduct by the registrant can be demonstrated or the domain name has not been used in a relevant way for at least two years from the date of registration or in circumstances where, at the time the ADR procedure was initiated, the holder of a domain name in respect of which a right is recognized or established by national and/or Community law or the holder of a domain name of a public body has declared his/its intention to use the domain name in a relevant way but fails to do so within six months of the day on which the ADR procedure was initiated or where the domain name was registered primarily for the purpose of disrupting the professional activities of a competitor, or the domain name was intentionally used to attract Internet users, for commercial gain, to the holder of a domain name website or other on-line location, by creating a likelihood of confusion with a name on which a right is recognized or established by national and/or Community law or a name of a public body, such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website or location or of a product or service on the website or location of the holder of a domain name.

Since the Respondent did not present any factual and/or legal argumentation rebutting the Complainant’s claims, the panel takes the claims of the Complainant regarding the bad faith of the Respondent for sufficient to establish bad faith of the Respondent.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that the domain name BBCENTRUM be transferred to the Complainant.

PANELISTS

Name	**David Stros**

DATE OF PANEL DECISION 2007-02-09

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant is holder of registered Czech national trademarks related to the contested domain bbcentrum, which rights were recognised as prior rights within the meaning of Article 10(1) of the Commission Regulation (EC) No 874/2004. The Complainant is further involved in operation of the BB centrum in Prague, the Czech Republic. The Complainant claimed the bbcentrum.eu domain be registered by the Respondent in bad faith for purely speculative reasons. The Respondent did not present any argumentation. The Complainant proved properly his prior rights, claimed bad faith which was not questioned by the Respondent and the Complainant applied for the domain name and that this domain name is transferred to the Complainant. Based on the above, the panel ordered the domain name be transferred to the Complainant.