Panel Decision for dispute CAC-ADREU-003946

Case number	**CAC-ADREU-003946**
Time of filing	**2006-12-05 10:58:24**
Domain names	**tal.eu**

Case administrator

Name	**Tomáš Paulík**

Complainant

Organization / Name	**MarkMonitor, David Haenel**

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

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the disputed domain name

FACTUAL BACKGROUND

The domain name tal.eu was registered to Rui Manuel Costa Seixas, an individual, during the Second Phase of the Sunrise Period for .eu domains. According to the Registry, the prior right relied upon was a company name. In support the documentary evidence relied upon consisted of a copy of the statutes of incorporation of the company "TAL – Tecnica de ascensores, LDA", a company incorporated in Portugal.

The Complainant is MarkMonitor, David Haenel. Whilst his interest in the domain name is not apparent, he seeks to have the registration annulled

A. COMPLAINANT

The Complainant seeks only to have the registration annulled on the grounds that the Prior Right relied upon by the applicant does not match the tal.eu domain name requested by applicant. In fact, he observes, 'tal' is only part of the the complete name for which the Prior Right exists, in violation of the Sunrise rules and Article 10 of the EC Regulation 874/2004.

B. RESPONDENT

The Respondent agrees that the registration should be annulled but for different reasons.

In principle, it observes, the company name "TAL – Tecnica de ascensores, LDA" can support an application for the domain name "tal.eu" because the words “Tecnica de ascensores” are merely descriptive of the companies activities and TAL is without any doubt the distinctive part of the company name.

However, it adds, the validation agent should have found that the Applicant did not demonstrate that he, Rui Manuel Costa Seixas, was the holder of a prior right on the name TAL. Based on these findings, the Respondent would have rejected the Applicant’s application.

DISCUSSION AND FINDINGS

In this case, the Complainant seeks an annulment on certain grounds, whereas the Registry agrees to the annulment but for different reasons. Accordingly, whilst there might be a difference in emphasis in the interpretation of the facts, the facts themselves are not in dispute; nor is the the appropriateness of the remedy. The Panel finds that the Applicant does not have a prior right to the domain, which should not have been registered to him.

DECISION

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	**Joseph Dalby**

DATE OF PANEL DECISION 2007-02-02

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

Both Complainant and Registry sought annulment of the registration of the domain name albeit for different reasons. The Panel found that the applicant did not have a prior right to the domain name and allowed the request for annulment.