Panel Decision for dispute CAC-ADREU-004000

Case number	**CAC-ADREU-004000**
Time of filing	**2006-12-07 15:36:34**
Domain names	**hydac.eu**

Case administrator

Name	**Josef Herian**

Complainant

Organization / Name	**HYDAC Technology GmbH**

Respondent

Organization / Name	**Ovidio Ltd.**

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 pending proceedings which relate to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is the owner of a word mark HYDAC for goods in class 6, 7, 8, 9, 11, 12, 16, 21 and 24.

Respondent originally registered the domain name in question on June 7, 2006 and deleted the domain name on October 19, 2006. Eurid confirmed the deletion on October 25, 2006, but put the domainname on hold after being informed by the Court that proceedings were initiated on behalf of the Complainant on October 23, 2006. After having identified the payment and the filing of the electronic version of the Complaint, the initiated proceedings started. The whois-database of the Registry shows the Respondent as the current Registrant. There are no other ADR proceedings filed concerning the domain name in question.

A. COMPLAINANT

The Complainant requests transfer of the domain name and is of the opinion that the domain name is identical or confusingly similar to a trademark in which the Complainant has rights. In view of the Complainant, the Respondent has no rights or legitimate interests in respect of the domain name. Furthermore, the domain name is allegedly registered and is being used in bad faith since it is primarily used for the purpose of renting “sponsored links” to competitors of the Complainant and dealers of products competing with the Complainant´s products, which shall be shown by the provided evidence. The trademarks enclosed to the Complaint are in part in German and French, however, with respect to a community trademark HYDAC also in English.

B. RESPONDENT

The Respondent has filed a detailed response claiming two sets of arguments.

First of all, the Respondent is of the opinion that he was not the registrant of the disputed domain name any more at the time of filing of this ADR proceeding due to the fact that a cancellation notice was forwarded to Eurid on October 25, 2006 and the related suspension period of 40 days ended on December 4, 2006, which was before the time of filing.

Respondent is of the opinion that he held a legitimate interest in the domain name as long as he was the registrant since he registered the domain name at a time when it was publicly available for registration. Respondent further argues in quite detail that its use of the websites under the domain names were of legitimate interest. Last but not least, Respondent has not acted in bad faith since none of the examples of the Commission Regulation (EC) No 874/2004 of April 28, 2004 are met.

Notwithstanding the foregoing, Respondent agrees to a transfer of the domain name as he had proposed already before filing its

response.

DISCUSSION AND FINDINGS

Since both parties request respectively agree to the transfer of the domain name in question, the Panel is of the opinion that it is able to order the requested relief at least in the present case where no other ADR-proceeding is filed related to the domain name in question and accordingly no rights of third parties are especially affected. It follows - with this additional remark - the panel´s decision in a recent case (CAC 3748 – ENDOTHIL and others). A decision on the requirements of Art 21 of the Commission Regulation (EC) No 874/2004 of April 28, 2004 is accordingly not necessary.

As the panel in the ENDOTHIL case also this Panel does not see a necessity to decide whether this constellation must be regarded as a settlement as provided in 4 of the ADR-Rules.

DECISION

For all of the forgoing reasons, in accordance with B 12 (b) and (c) of the rules, the Panel orders that the domain name HYDAC is transferred to the Complainant.

PANELISTS

Name	**Tuukka Ilkka Airaksinen**

DATE OF PANEL DECISION 2007-03-07

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

Since both parties request respectively agree to the transfer of the domain name in question, the Panel is of the opinion that it is able to order the requested relief at least in the present case where no other ADR-proceeding is filed related to the domain name in question and accordingly no rights of third parties are especially affected. It follows with this additional remark the panel´s decision in a recent case (CAC 3748 – ENDOTHIL and others). A decision on the requirements of Art 21 of the Commission Regulation (EC) No 874/2004 of April 28, 2004 is accordingly not necessary.