Panel Decision for dispute CAC-ADREU-004014

Case number	CAC-ADREU-004014
Time of filing	2006-12-11 12:02:11
Domain names	game.eu

Case administrator

Name	Josef Herian

Complainant

Organization / Name	The Game Group Plc

Respondent

Organization / Name	First Internet Technology 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 no aware of any other legal proceedings. in relation to the disputed domain name.

FACTUAL BACKGROUND

The Complainant, Game Group PLC, lodged a complaint against the registration of the domain name «game.eu» (“Disputed Domain Name”) by First Internet Technology Limited (“Respondent”). Both parties are incorporated in the UK.

The Disputed Domain Name was registered on 7th December 2005, during the Sunrise Period, in the name of the Respondent.

The Complaint is made in accordance with Article 22 of the Commission Regulation (EC) No 874/2004 of 28 April 2004 (“Regulation”)

On 13 February 2007, the Panel was appointed.

A. COMPLAINANT

The following is a summary of the main submissions of the Complainant. The Complainant asserts:

Complainant’s rights

1. The Complainant is the proprietor of a range of registered and pending trade marks at UK and European Union level including:

(i) GAME Community Trade Mark application number 2300028 in classes 9, 16, 28, 35, 41, 42;

(ii) UK Trade Mark Registration number 2269947B in classes 16, 35; and

(iii) UK Trade Mark application number 2269947B in classes 9, 16, 28, 35, 38, 41, 42.

Documents evidencing these trade marks are provided in Annex 1.

2. The Complainant is Europe’s leading specialist retailer of computer software and video games, with an annual turnover is some £576.6 million for the financial year ending April 2005. The Complainant operates from nearly 800 stores, concessions and franchises in the UK, Eire, Sweden, Denmark, Spain and France. As a result of extensive usage, advertising and promotion, the Complainant has acquired substantial goodwill and reputation in the trade mark «GAME» in relation to a broad range of goods and services. Accordingly,

in addition to the registered trade marks identified above, the Complainant has acquired common law trade mark rights in the trade mark «GAME» in such fields. At least in the UK, such common law rights arise by reason of the law of passing off. Documents evidencing usage are provided in Annex 2.

3. The Complainant is also the owner of numerous domain names incorporating «GAME» including game.co.uk, game.net and game-group.co.uk, details of which are attached at Annex 4.

Background

4. On 3 March 2006, the Complainant's solicitors, Bond Pearce LLP, attempted to telephone the Respondent using the telephone number provided on the EURID application information sheet (0031765148403). The Complainant's solicitors asked to speak to Kay Pearlson (the contact given on this information sheet). The Complainant's solicitors were told that there was no one of this name and the telephone call was directed to another individual who introduced herself as Ms Fenselaar. She said that she was a trade mark attorney acting for First Internet Technology Ltd. Ms Fenselaar said that she would forward the Complainant's solicitors a contact telephone number once she had approval to do so.

5. On 6 March 2006, the Complainant's solicitors received an email from Daphine Venselaar from Merk-Echt B.V. providing contact details for Mr Marc Ostrofsky and Mr Bob Martin. A copy of this email is set out in Annex 5.

6. On 24 March 2006 the Complainant's solicitors wrote to Mr Marc Ostrofsky and Mr Bob Martin highlighting the Complainant's rights in the trade mark «GAME» and requesting that the Disputed Domain Name be transferred. The Complainant's solicitors stated that the Complainant was prepared to reimburse the Respondent's reasonable expenses in connection with the domain name registration. A copy of this letter is set out in Annex 6. No response was received.

Disputed Domain Name

7. The Disputed Domain Name consists only of the Complainant's trade mark «GAME». The Complainant contends that the Disputed Domain Name is identical to a name in respect of which a right is established and recognised by the national law of the UK and Community law in accordance with Paragraph B11(d)(1)(i) of the .eu Alternative Dispute Resolution Rules (ADR Rules).

8. The Respondent has no rights or legitimate interests in respect of the domain name.

9. The Complainant seeks a transfer of the Disputed Domain Name in accordance with Paragraph B11(b) of the ADR Rules.

Registered and used in bad faith

10. The Complainant contends that the material set out in its submission clearly demonstrates that, in accordance with Paragraph B11(d)(1)(ii) and Paragraph B11(d)(1)(iii) of the ADR Rules:

(i) the Respondent has no legitimate rights or interests in the domain name, and

(ii) the Respondent has registered and is using the domain name in bad faith.

11. The Respondent does not hold itself out as and is not otherwise known as «GAME» and has no common law rights in «GAME».

12 The Respondent is not making a bona fide commercial or fair use of the Disputed Domain Name. The Complainant contends that to date, the Respondent, has not promoted any of their goods or services under the Disputed Domain Name.

13. Between approximately 10 May 2006 and 13 October 2006 (until terminated by the Complainant), the Disputed Domain Name pointed to the Complainant's domain name game.co.uk. This is one of the Complainant's principal websites.

14. The Complainant had originally been approached by a Samuel Hills (via TradeDoubler) with a request that they wished to point their website to the Complainant's domain name game.co.uk. Such practice is not uncommon and the Complainant stood to benefit financially from the arrangement. The Complainant was not aware, however, that the organisation behind the approach was the Respondent.

15. The Complainant contends that the Respondent was trying to validate registration of the Disputed Domain Name and does not have any genuine rights or interests in the name.

16. The Complainant also contends that the fact that the Disputed Domain Name pointed to the Complainant's site amounts to evidence that the Disputed Domain Name has been registered or is being used in bad faith in accordance with Paragraph B11(d)(1)(iii) of the ADR Rules. From the fact that the Respondent specifically targeted the Complainant (confirming that the Respondent was wholly aware of the Complainant's business and rights in the «GAME» brand) it is to be inferred that, and the Complainant is driven to the conclusion that, the Disputed Domain Name was registered with the intent that, in due course, it would be sold or transferred to the Complainant for a sum considerably in excess of the Respondent's out of pocket costs directly related to the domain name. This may, therefore, amount to evidence under Paragraph B11(f)(1) of the ADR Rules 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 recognised or established by national and/or Community law.

17. As stated above, on 13 October 2006, the Complainant terminated the affiliate scheme. The Complainant contends that since this date, the Respondent has not made a bona fide commercial or fair use of the Disputed Domain Name. The Disputed Domain Name now supports a generic directory website and under the headings "Popular Links" and "Popular Categories" this website displays a link for «GAME». This link leads to a page featuring another link for "Game UK site". This leads to the Complainant's domain name game.co.uk.

18. The Complainant contends that the references and links to the Complainant and the Complainant's trade mark demonstrate under Paragraph B11 (f) (4) of the ADR Rules that the Disputed Domain Name was intentionally used to attract internet users, for commercial gain to the Respondent's website or other on-line location, by creating a likelihood of confusion with a name on which a right is recognised or established, by national and/or Community law, 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 Respondent.

19. The Complainant understands that the basis for filing the Disputed Domain Name is Benelux trade mark registration number 779531 «GAME» in respect of "plectrums" in class 15. To date, the Respondent has not used the Disputed Domain Name in connection with offering plectrums or related goods and there is no evidence of the Respondent's intention to do so.

20. The Respondent's Benelux trade mark was filed on 22 November 2005, just 15 days before the Disputed Domain Name application was submitted. The Complainant contends that this serves to indicate that the Disputed Domain Name was registered specifically for the purpose of obtaining a .eu domain name and to benefit financially from such registration, rather than protecting a genuine prior right.

21. The Respondent has registered some 55 Benelux trade marks (filed within weeks of the sunrise period), including "JEWELRY", "CHOCOLATES", "SEARCH", "COMPUTER", "SOFTWARE", "BLACKJACK", "WEATHER", "SUMMERCAMPS", "SEO", "POKER", "MORTGAGE", "MOBI", "HOTELS", "GAMES", "GAME", "FURNITURE", "FINANCE", "FASHION", "EURO", "DOMAINS", "DIET", "DATING", "CELLPHONE", "CAMPS", "BOOKS", "BETTING", "ADS", "VACATION", "ROULETTE", "WATCHES", "TRAVEL", "CHOCOLATE", "CREDITCARDS", "MOVIES", "WEIGHTLOSS", "TICKETS", "SPORTS", "RENT", "NEWS", "MAPS", "MAP", "LOVE", "HOTEL", "FREEGAMES", "FREE", "EUROS", "EMAIL", "DIETS", "DEBT", "COMPUTER GAMES", "BUSINESS", "BROADBAND", "ASK", "ART" and "ADSL". Full details of these trade marks are set out in Annex 8.

22. Investigations conducted by the Complainant have revealed that the Respondent has applied for 52 corresponding .eu domain names based on prior rights granted by the said Benelux registrations including "jewelry.eu", "chocolates.eu", "search.eu", "computer.eu", "software.eu", "blackjack.eu", "weather.eu", "summercamps.eu", "poker.eu", "mortgage.eu", "mobi.eu", "hotels.eu", "games.eu", "game.eu", "furniture.eu", "finance.eu", "fashion.eu", "domains.eu", "diet.eu", "dating.eu", "cellphone.eu", "camps.eu", "books.eu", "betting.eu", "ads.eu", "vacation.eu", "roulette.eu", "watches.eu", "travel.eu", "chocolate.eu", "creditcards.eu", "movies.eu", "weightloss.eu", "tickets.eu", "sports.eu", "rent.eu", "news.eu", "maps.eu", "map.eu", "love.eu", "hotel.eu", "freegames.eu", "free.eu", "euros.eu", "email.eu", "diets.eu", "debt.eu", "computergames.eu", "business.eu", "broadband.eu", "ask.eu", "art.eu" and "adsl.eu". Full details are set out in Annex 9.

As stated by the Panel in the Decision of Memorex Products Europe Limited v Goallover Limited (ADR 01196), "The intention beneath the Commission Regulations (EC) 733/2002 and (EC) 874/2004, as is apparent from the recitals of the said Regulations, has been to allow holders of legitimate and genuine prior rights to register domain names, which correspond to their proprietary rights. The intention has

not been to allow for speculative and abusive domain name registrations based on such trade mark rights, which are not based on genuine and bona fide need for an exclusive right, but instead to prevent any such speculative and abusive registrations".

23. The Complainant contends that the Disputed Domain Name is a speculative registration that has been registered in bad faith. As illustrated by the 52 .eu domains referred to above, the Complainant contends that the Registrant simply wanted to secure as many .eu domains as possible, presumably so that they could benefit financially from their ownership, rather than to protect genuine proprietary rights.

24. As set out at paragraphs 18 and 19 above, the Respondent was aware of the Complainant and of the Complainant's rights. The Complainant contends that the Disputed Domain Name was registered in order to prevent the holder of a name in respect of which a right is recognised or established by national and community law from reflecting this name in a corresponding domain name. As illustrated by the number of speculative .eu domain applications filed by the Respondent and referred to above, the Complainant contends that, in accordance with Paragraph B11(f)(2)(i), the Respondent has engaged in a pattern of similar conduct previously.

25. Investigations conducted by the Complainant have also revealed an article appearing on the webpage at http://www.azam.biz/eu-domain-names-fraud/ which makes reference to the Respondent. An extract from this article states "Bob Martin, Stuart Rabin, Marc Ostrofsky who are part of the notorious Internet REIT, Inc. gang grabbed some of the greatest .EU domains from Europeans themselves by using a phantom company with a London address called 'First Internet Technology Ltd.' They claimed to have Netherlands domiciled European trademarks and managed to buy hundreds of the juiciest domain names ranging from art.eu and ask.eu to york.eu". This article appears at Annex 10.

26. Carratu International Plc, a corporate investigation company instructed by the Complainant, verified that First Internet Technology Limited was incorporated on 20 November 2005 and that the company principals are Milton Price Ltd and Keri Pearlson. Further searches showed that Keri Pearlson is also a company principal of First European Technology Ltd. Ms Pearlson's address was shown to be 5100 San Felipe No 372B, Huston, Texas, TX77 056, USA. Searches of US records showed that Ms Pearlson has also used the name Keri Ostrofsky which was, possibly, her maiden name.

27. A search of the address listed by Ms Pearlson in the Companies House filings, 5100 San Felipe No. 372E, showed this to be the business premises of Marco Publishing Corp. The registered director of this company was shown to be Marc H Ostrofsky. This is the contact name that was originally provided to the Complainant's solicitors at set out above.

28. General internet searches have revealed a number of references to Marc Ostrofsky, including having his own entry in Wikipeda, the online encyclopaedia, a brief summary of some of these references is as follows:

(a) Marc Ostrofsky is a Huston, Texas based entrepreneur notable for his record sale of the internet domain name "business.com" for US dollars £7.5 million to eCompanies.

(b) Ostrofsky is on the board of the World Association of Domain Name Developers, Inc.

(c) Ostrofsky's new partnership is putting together a US$250m to US$500m war chest to acquire top quality domains. Mr Ostrofsky is a known domain name warehouser who buys and sells domain names as assets. Full details are set out in Annex 11.

29. Paragraph B11(e) of the ADR Rules provides examples of circumstances that can demonstrate the existence of rights or legitimate interests in a domain name:

a) prior to any notice of the dispute, the Respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

b) the Respondent, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or Community law;

c) the Respondent is making a legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in which a right is recognised or established by national law and/or Community law.

30. The Complainant contends that, as set out above, all three elements of Paragraph B11(d)(1) of the ADR Rules are satisfied and therefore requests the transfer of the Disputed Domain Name.

B. RESPONDENT

The following is a summary of the main submissions of the Respondent. The Respondent asserts:

Complainant's Claim of A Prior Right

1. In order to prevail under Commission Regulation 874/2004, the Complainant must show that the name is identical or confusing similar to a name in respect of which a right is recognised or established by national and/or community law. There are two alternative paths provided for administrative disputes under the Regulation. The first is a challenge to the Registry's original assignment of the domain name to the registrant. The second is a challenge against the registrant. This proceeding is of the second variety, as the Complainant does not challenge the Registry's determination to assign the domain name to the Respondent.

2. The demonstration of right required of the Complainant is understood to mean a "prior right" relative to registration of the domain name. In that regard, it is to be noted that the domain name was assigned on 7 March 2006, and hence evidence of right after such date is inapplicable to a finding of a "prior right" here.

3. The Complainant has supplied several documents, one of which is twice identified in the Complaint. To be clear, the Complainant's UK application 2269947 was divided into a 2269947A and a 2269947B (which is twice mentioned in the Complaint). Of these, the original and the "A" division have not been registered by the UK Patent Office. While it is not clear from hard copy materials, the only registered mark owned by the Complainant is the 2269974B. This mark is a stylized logo, and the registration document clearly states "The applicant claims the colours pink and turquoise as an element of a mark".

4. The Complainant's cited Community Trade Mark Application is evidence of the ability to file a Community Trade Mark Application. The Complainant does not claim to have obtained registration based on this application in any Community jurisdiction. As noted on the Complainant's record of this application, its status in the UK is simply noted as "New Application". Accordingly, the Community Trade Mark Application is not probative of ownership of a prior right.

5. The Complainant's claim within its sole UK trademark registration document is to a stylized logo in which the Complainant specifically "claims the colours pink and turquoise as an element of the mark". There is ground here for limitation of the scope of the Complainant's claim here to the logo and colours specifically so claimed. First, it is beyond the authority of an ADR panel to expand the rights conferred upon Complainant by the appropriate registration authority which issued the document relied upon by the Complainant. Second, the Panel will note that in the first sentence of the Complaint, and as is rendered beyond doubt by the Complainant's other exhibits, states that Complainant is a specialist retailer of, inter alia, "games".

6. The Respondent does not dispute that the Complainant may be able, in connection with the sale of games, obtain limited and narrow rights in a stylized logo rendered in a colourful manner. At issue here is a domain name which is limited solely to the textual component «GAME» which corresponds directly to the generic item in which the Complainant claims to trade. While there may be appropriate circumstances under which minor embellishments to a trade or service mark rendered graphically may be unimportant, it is beyond certain that the Complainant's limitation of the claims made in its trade mark filings both as to a graphical rendering and expressly relying upon the colors "pink and turquoise" must be taken into account as distinguishing elements of the mark. The word «GAME», on the other hand, cannot on its face be understood to be distinctive of the Complainant's claimed trade in games.

7. For the foregoing reasons, the Respondent submits that the Complainant has not made out the initial ground required under the Regulation. Insofar as (a) the Complainant has demonstrated a single trade mark registration limited as to appearance and expressly as to color, (b) the Complainant's exhibits consistently show the stylization and color as used by the Complainant in connection with trade in games, and (c) it is apparent that the Complainant admittedly trading in "games" as a generic designation for a category of goods (and indeed as "games" are listed among the generic recitation of Complainant's goods and services within its trade mark application documents), then the Complainant has not proven sufficient grounds in which it may claim an exclusive prior right under the Policy that is identical or confusingly similar with the purely textual domain name at issue here - «GAME».

8. The lack of distinctiveness in the term «GAME» as used by the Complainant is clearly demonstrated in a cursory search of the text of other UK registered and active trade or service marks. Attached hereto as Exhibit A is a print-out of the UK trade marks registry illustrating that the textual component «GAME» appears in may live and registered UK trade marks, and while it may be subject to peculiar graphical or colour limitations within the documents so referenced, it is clear that within the classes claimed by the Complainant, the Complainant is by no means distinguished by the textual component of its claimed trade mark. Similarly, the Complainant has not demonstrated how it may claim common law rights in the word «GAME» in connection with the sale of games, nor why the Complainant has not sought registration thereof.

9. Accordingly the Respondent submits that the Complainant has not made a sufficient claim of prior right under the Regulation.

Other Allegations Made By the Complainant

10. The Complainant does not dispute that the Respondent is chartered under the laws of the United Kingdom. Regardless of whether the Respondent is well served by its corporate agents, the Complainant's colourful allegations - such as referring to certain individuals as constituting a "gang" - concerning individuals believed by the Complainant to be involved in the management or operation of the Respondent's organization are not germane to the proceeding here.

11. In view of the Respondent's submission above, the Respondent elects to stand on the argument therein. The Respondent is First Internet Technology Ltd., and the Respondent has no desire to address the Complainant's speculations, extending even to supposed family histories of various individuals mentioned among the Complainant's stream of thought dissertation.

12. It is certainly correct that registration of the domain name at issue was sought on the basis of formal rights acknowledged to be owned by the Respondent. These submissions were reviewed and audited by PriceWaterhouseCoopers under contract with EUrid to manage the initial allocation of domain names. The Complainant has not sought to challenge such allocation in a dispute properly directed to Eurid under the procedures relating to such initial allocation. Rather, the Complainant has decided that its various inferences and presumed associations among certain individuals would provide a colorful distraction from the Complainant's double-counting of a single UK trade mark registration, and the Complainant's failure to demonstrate that the domain name corresponds, or indeed is capable of corresponding, to a prior right recognised under applicable law.

13. Accordingly, the Respondent stands on the arguments raised above, on Eurid's unchallenged allocation of the domain name to the Respondent, and on Complainant's election to decline to pursue the appropriate form of proceeding available to it to challenge such allocation of the domain name by the Registry.

DISCUSSION AND FINDINGS

Background

1. The complaint has been made under Article 22(1)(a) of the Regulation, which provides that an ADR procedure may be initiated by any party where the registration is speculative or abusive within the meaning of Article 21 (Speculative and Abusive Registrations).

2. Article 21(1) of the Regulation provides that a registered domain name shall be subject to revocation using where that name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Community Law and where:

(a) it has been registered by its holder without rights or legitimate interest in the name; or

(b) has been registered or has been used in bad faith.

Identical or confusingly similar

3. The Complainant has submitted evidence of its rights in the word «GAME». This Panel accepts that the Complainant has established:

(a) rights in relation to its registered trade mark, with further on-going trade mark applications (filed in 2001 and 2003 respectively). While the registered trade mark is a device mark, the word «GAME» can clearly be distinguished in and is integral to the image, and therefore it is undeniable that the mark is identical to the Disputed Domain Name; and

(b) certain common law rights, recognised under English law, in relation to the word «GAME». Evidence has been submitted to establish that the Complainant, which operates under the word Game, is one of “Europe’s leading specialist retailer of computer software and video games, with an annual turnover is some £576.6 million” for the financial year ending April 2005, operating in UK, Eire, Sweden, Denmark, Spain and France. Further, evidence of extensive usage of advertising and other domain names (such as game.co.uk and

game.net) has been provided: as such, this Panel accepts that the Complainant has acquired substantial goodwill and reputation in the trade mark «GAME» in relation to a range of goods and services throughout UK and European Union.

It is established, therefore, that the Disputed Domain Name is identical to a name in which the Complainant has rights and accordingly the first requirement under Article 21 of the Regulation is met.

Registered without rights or legitimate interest

4. Article 22(2) sets out how a registrant can demonstrate its rights or legitimate interest in a domain name. In this dispute, the Respondent has not addressed this issue in its Response, contrary to s.3(b)(6) and (8). However, the Panel notes from the Complainant's submission that the Disputed Domain Name was registered by EURid on the basis of a Benelux mark which the Respondent had filed 15 days prior to the commencement of the sunrise period.

5. The Benelux Trade Mark registration for GAME, filed by the Respondent, is registered in Class 15 for "plectrums". There is no evidence that the Respondent has used the trade mark GAME in respect of the provision of either goods or services or further that the trade mark GAME has ever been applied to "plectrums" by the Respondent. The only alleged use of the Disputed Domain Name has been that it resolved to the Complainant's website at game.co.uk (for a period of 6 months), and from which any genuine fair-use of the Disputed Domain Name must be brought into question, and subsequently to a generic web directory.

6. As the Respondent has not itself made any representation about its right or legitimate interest in the name GAME, or any evidence thereof, the Panel finds that the Respondent has not met this requirement and therefore there is no obligation under Article 21(1) to consider the issue of bad faith. However, given the issue has been raised, the Panel will now take this opportunity to consider the issue of bad faith.

Registered or used in bad faith

7. Article 21(3) of the Regulation sets out the meaning of "bad faith" for the purposes of the Regulation, which includes where,

(a) the domain name was registered or acquired primarily for the purpose of selling, renting or otherwise transferring the domain name to a holder of the name in respect of which a right is recognised;

(b) the domain name has been registered in order to prevent the holder of such a name in respect of which a right is recognised by national or Community Law from reflecting this name in a corresponding domain name provided that a pattern of such conduct by the registrant can be demonstrated;

(c) the domain name was registered primarily for the purpose of disrupting the professional activities of a competitor;

(d) the domain name was intentionally used to attract internet users for commercial gain.

8. The Complainant details a number of points which, on the balance of probabilities, suggest that the registration of the Disputed Domain Name by the Respondent was done in bad faith. Most notably,

(a) the Complainant alleges that for a period of approximately 6 months, the Disputed Domain Name resolved to the Complainant's website at game.co.uk. This allegation has not been dismissed by the Respondent, and the Panel has no reason to doubt the allegation. As such, this action not only demonstrates that the Respondent clearly knew of the Complainant and its business but also took financial benefit from the Complainant's name. The Panel concurs with the Complainant that there is a clear inference that the Disputed Domain Name was registered with the intent that, in due course, it would be sold or transferred to the Complainant for a sum considerably in excess of the Respondent's out of pocket costs directly related to the domain name.

(b) the Complainant has demonstrated, that the Respondent has engaged in a pattern of conduct where it has registered over 50 generic .eu domain names without any apparent intention to trade under such names;

(c) a report by an internet investigations company, .com investigations, suggests that the Respondent is a corporate vehicle which has been set up purely to acquire many generic domain names with a view to selling the domain names for vast sums. Further, the report suggests that there is a link between the sole director of the Respondent and Mr Marc Ostrofsky, a renowned domain name entrepreneur; however this link is not clear and in any event, the Respondent is the registrant of the Disputed Domain Name and is in its own right a legal person, independent of others. The Panel concurs with the submission of the Respondent that such speculative allegations must not be considered in this matter.

9. From its own review of .eu decisions, the Panel notes that the Respondent has previously been held to have registered a .eu domain name in bad faith (ask.eu ADR 02438). Further, and although speculative on the part of the Panel and therefore does not form part of the decision, it is noted that "First European Technology Limited" (a separate legal entity to the Respondent, but a similar company name with identical address) was also held to registered a .eu domain name in bad faith (autotrader.eu ADR 03147).

10. On the basis of the above, the Panel finds that the Disputed Domain Name was registered by the Respondent in bad faith.

DECISION

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

PANELISTS

Name	**Simon Moran**

DATE OF PANEL DECISION 2007-03-02

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant brought an action against the Respondent for a speculative and abusive registration of the domain name "game.eu" ("Disputed Domain Name").

The Panel held that the name was identical to the Complainant's trade mark registration for «GAME».

The Panel also held that the Respondent had no rights or legitimate interest in the name, as the Respondent had not made any representations in respect of its rights.

Further, the Panel also found that on the balance of probabilities, the Disputed Domain Name had been registered in bad faith because of a number of circumstances including that the Disputed Domain Name was linked to the Complainant's website for 6 months, the Respondent has registered over 50 generic domain names without any apparent intention to trade under such names, and a previous .eu domain name registration had been held to be done in bad faith.

The Panel therefore ordered that the domain name be transferred to the Complainant.