Panel Decision for dispute CAC-ADREU-004108

Case number	**CAC-ADREU-004108**
Time of filing	**2007-01-10 12:39:03**
Domain names	**younglife.eu**

Case administrator

Name	**Tereza Bartošková**

Complainant

Organization / Name	**YoungLife, Dave Martin**

Respondent

Organization / Name	**Hanoki, Ltd., Hanoki, 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

There are no other legal proceedings of which the Panel is aware that are pending or decided and which relate to the disputed domain name.

FACTUAL BACKGROUND

Acc. to license declarations enclosed, Complainant is licensee of the owner of 2 European trademarks “YoungLife”, a word mark (3367893) and a figurative mark “YL YoungLife”(3367885), which are registered for classes 39, 41, and 43.

The domain name “YOUNGLIFE.eu” has been registered with the Respondent on 7 April, 2006.

On 9 January, 2007 the Czech Arbitration Court (CAC) received Complainant’s Complaint.

The Complainant requests the Panel to decide:

Transfer of the domain name YOUNGLIFE.eu to the Complainant.

Respondent did not file a response to the Complaint.

A. COMPLAINANT

The Complainant had entered into Licence Agreements with Young Life, a Non -Profit Organisation, located in Colorado Springs, CO 80901, USA concerning the use of the word trade mark “YoungLife” as well as the figurative trademark “YL YoungLife”. Young Life has been a non-profit, non-denominational Christian organisation for more then 60 years and is committed to preparing children for the future.

The Complainant lives in Germany, and is therefore a natural person resident within the E.C. pursuant to Article 4.2 (b) (iii) EC Regulation No. 733/2002.

Young Life is the owner of the trade marks “YoungLife” and “YL YoungLife”, both registered with the Office for the Harmonization in the

Internal Market on March 8, 2005 under the trademark No. 3367893 and 3367885, excerpts attached.

These trademarks “YoungLife” and “YL YoungLife” are right(s) recognized and established by the Community law according to Article 10.1EC Regulation No. 874/2004, under which “prior rights” include “national and community trademarks”.

Young Life is also the owner of many other national European word trademarks, for example in Austria, Finland, France, Greece, Ireland and Spain.

All services offered by Young Life are offered under the name “YoungLife” or just the symbol “YL YoungLife” respectively.

The Respondent is based in the UK and has already been involved in at least one other legal proceeding at the Czech Arbitration Court (ADR 01134 “RABBI”). In that matter, the Complainant had requested the domain name “RABBI.eu”, which was registered by the Respondent, to be transferred to the Complainant and by doing so the Complainant had stated that the Respondent “has registered the domain name in bad faith, primarily for the purpose of selling the name”.

This applies for this case as well. Once again, the Respondent registered a domain name in bad faith, primarily for the purpose of selling the name. This time, however, with regard to the domain name “younglife.eu”.

In pertinent internet discussion forums the Respondent is said to be “a shell company apparently established for the purpose of so-called domain grabbing.” (Copies from the website “Bobparsons.com”, retrievable under the website “http://www.bobparsons.com/EURidRespondsf.html”. Users report there that certain companies registered over 30,000 generic domain names; among them also the Respondent.

Young Life’s representative contacted the Respondent and referred to the fact that its domain registration violated the trademark rights of the Complainant. In addition, the Respondent was requested to transfer the domain “younglife.eu” to the Complainant until no later than September 1, 2006. This deadline expired without any reaction from the Respondent.

Respondent’s domain name is identical or at least confusingly similar to the trademark of the Complainant. The Complainant has been granted the rights to use the registered trademarks “YoungLife” and the “YL YoungLife” by its owner Young Life. The domain name of the Respondent is www.younglife.eu. It is apparent that with regard to the word trademark “YoungLife” trademark and domain are identical.

The domain name “younglife.eu” was registered by its holder without rights or legitimate interests.

The Respondent has no registered trademark with the name of the domain name “Young Life”. It has also no legitimate interest to use it. The Respondent has not used the domain prior to any notice of the ADR procedure, nor has it been commonly known by the domain name nor is it making a legitimate and non-commercial or fair use of the domain name according to Article 21.2 EC Regulation No. 874/2004. Instead, as the Court proceedings with regard to the “Rabbi”-case show and the discussion forums in the Internet seem to confirm, the Respondent has registered many different generic names that are not connected or related to each other. Apparently it is the Respondent’s prime intention to register popular generic domain names in order to be able to sell them afterwards to users that desperately need these names for their business. These circumstances indicate that the domain name “younglife.eu” was registered or acquired primarily for the purpose of selling it to someone else and the domain name thus should be considered as having been registered or being used in bad faith as well according to Article 21.3 EC Regulation No. 874/2004.

As mentioned before, the Complainant requests the transfer of the disputed domain name “younglife.eu” to himself. He satisfies the general eligibility criteria for registration set out in Article 4.2 (b) (iii) EC Regulation No 733/2002. This requires that the Complainant is a natural person resident within the E.C. The Complainant is a resident in the city of Berg, Germany, and is reachable under the provided addresses and fax/phone numbers.

Thus, we request transfer of the domain name www.YOUNGLIFE.eu to the Complainant.

B. RESPONDENT

The Respondent has not filed a response.

DISCUSSION AND FINDINGS

A claim for the transfer of the domain name to Complainant can only be granted in case the requirements of Article 21.1 of the EC Regulation No. 874/2004 (Speculative and abusive registrations) are complied with and Complainant is eligible to register .eu domain names acc. to Article 4.2 b) of the EC Regulation No. 733/2002 (see also Paragraph B.11(b) ADR Rules).

As Respondent has not disputed the facts provided by Complainant with the Complaint, the Panel regards the facts provided by Complainant as given acc. to Paragraph B 10 ADR Rules (see also ADR 2810 “RATIOPARTS”, 3976 “ABAT”).

1.
Complainant has proved that it is the licensee of the owner of a trade mark right “YOUNGLIFE” in the EC. Other than the complainant in ADR 2335 “FELA”, the Complainant provided a License Declaration in the form as provided by EURid at the time of the Sunrise periods (end of 2005). It is signed as of 25 October, 2006. Although the form was meant for the use within the Sunrise periods, Complainant completed it, obviously, for this proceeding, however, after the Sunrise periods. In this License Declaration it is stated that the Complainant has entered into a license agreement with YoungLife. Therefore, and in the absence of any contradiction by the Respondent, it can be construed that this License Declaration demonstrates the Complainant’s right to request the domain name under this proceeding. Therefore, the Complainant is eligible to enforce a trademark right acc. to Article 10.1 of the EC Regulation No. 874/2004.

2.
The domain name “YOUNGLIFE.eu” is identical to the Complainant’s trade mark “YOUNGLIFE”, as the suffix “.eu” is to be disregarded in this respect (see also ADR 475 “HELSINKI”; 387 “GNC”; 596, “RESTAURANT”, 3976 “ABAT”).

3.
Complainant has argued that Respondent has no rights or legitimate interests in the domain name “YOUNGLIFE.eu”. The burden of proof is on Complainant’s side (see also ADR 1304 “KEMET”). However, Complainant has presented its results of investigation with respect to the negative fact of the missing rights and legitimate interests of Respondent in the domain name “YOUNGLIFE.eu”. The Complainant particularly stated that the Respondent has no trademark right with respect to the name and has registered 30.000 (generic) domain names. Further, the Complainant maintained that under the domain name no contents were offered prior to the ADR proceeding. Acc. to Paragraph B 10 ADR Rules and in view of the missing material response of Respondent the Panel accepts this presentation as given and bases its decision on this presentation. Also, by browsing the internet, the panel itself has not found any hint with respect to any rights or legitimate interests of Respondent with respect to the domain name “YOUNGLIFE.eu”.

4.
Therefore, the Panel did not have to decide, whether the Respondent registered and/or used the domain name “YOUNGLIFE” in bad faith.

5.
As Complainant is an individual residing in Germany, acc. to Article 4.2 (b) (iii) EC Regulation No. 733/2002, Complainant is entitled to request the transfer of the domain name “YOUNGLIFE.eu”.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that

the domain name YOUNGLIFE be transferred to the Complainant.

PANELISTS

Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2007-04-04

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

Complainant is the licensee of the owner of 2 European Community trademarks “YOUNGLIFE” (No. 3367893 and 3367885), which are

registered for goods and services in classes 39, 41, and 43. The domain name “YOUNGLIFE.eu” has been registered with the Respondent on 7 April, 2006.

The Complainant asserts rights acc. to Article 21.1, and 2 of the EC Regulation No. 874/2004 due to a lack of right or legitimate interest of Respondent in the domain name. He further claims that Respondent registered the domain name and/or used it in bad faith.

Respondent did not file a response.

As Complainant’s assertions have not been disputed by Respondent, such assertions have been adopted by the Panel and build the basis of the Panel’s decision.

As the Complainant has proven that it is, as licensee of the trademark owner, the owner of a right acc. to Articles 21.1 in connection with 10.1 EC-Regulation 874/2004, and, further, that Respondent has no rights or legitimate interests in the domain name, and as further Complainant is eligible to register domain names acc. to Article 4.2 (b) EC Regulation 733/2002, the Panel decided to accept the Complaint. Accordingly, the Panel decided to let the domain name “YOUNGLIFE” be transferred to the Complainant.