Panel Decision for dispute CAC-ADREU-004127

Case number	CAC-ADREU-004127
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Domain names	iprospect.eu

Case administrator

Name	Tomáš Paulík

Complainant

Organization / Name	ISOBAR COMMUNICATIONS B.V., Simon ZINGER

Respondent

Organization / Name	Y-6 Ltd, Janusch KURT

INSERT INFORMATION ABOUT OTHER LEGAL PROCEEDINGS THE PANEL IS AWARE OF WHICH ARE PENDING OR DECIDED AND WHICH RELATE TO THE DISPUTED DOMAIN NAME

None at the best knowledge of the ARD Panel.

FACTUAL BACKGROUND

The Complainant is part of a global full service digital network created in 2004 by the company Aegis Group PLC (hereinafter: “Aegis Group”).

The Aegis Group is a leading marketing services company employing approximately 12,000 staff in over 60 countries. The Aegis Group is structured around two core business areas: a range of communication services businesses, on the one hand, and services regarding global market research network, on the other hand.

The Aegis Group is composed of several entities namely, Carat, Synovate, Vizeum and Isobar.

The Aegis Group has acquired 100% of the company iProspect (hereinafter: “iProspect”), the Original Search Engine Marketing Firm. iProspect functions with the Aegis Group’s Isobar’s division.

iProspect was founded in 1996 and is a pioneer in the area of search engine marketing. Its mission is to assist its clients to increase online market reach, strengthen brand equity, achieve stronger business results and generate greater profitability.

iProspect’s leading edge technology, marketing expertise and dedicated staff have attracted clients that consist of some of the world’s most successful brands and companies.

iProspect also works in close partnership with leading interactive media agencies to help them provide their clients with a “one-stop-shopping” solution for their search engine marketing needs. It works with agencies to build stronger value-added relationships with their clients by helping them increase the profitability of their internet marketing initiatives.

On April 7, 2006 (i.e. one day after the expiration of the second Sunrise period), the Respondent obtained the registration of the domain name <iprospect.eu> (hereinafter: “Domain Name”).

On June 22, 2006, the Complainant sent a cease and desist letter to the Respondent and requested the transfer of the Domain Name.

The Respondent did not reply on this letter.

On January 24, 2007, the Complainant filed a Complaint under the .eu Alternative Dispute Resolution Rules (hereinafter: “ADR Rules”) hereby requesting the transfer of the Domain Name to him.

A. COMPLAINANT

The Complainant contends that the Domain Name registered by the Respondent is identical or confusingly similar to a name in respect of which the Complainant possesses a right that is recognized or established by the national law of a Member State and/or Community law (§ 11 d. (1) (i) of the ADR Rules).

To establish this right, the Complainant invokes: (i) a word and figurative trademark registration for the name “IPROSPECT” owned by the Complainant, namely the Benelux word trademark registration “IPROSPECT” (No. 770590, registered on August 12, 2005 in classes 9, 35 and 42) and the Benelux figurative trademark registration consisting exclusively of the stylized word “iProspect” (Registration No. 770591, registered on August 12, 2005 in classes 9, 35 and 42); (ii) the company name “IPROSPECT” (the company iProspect was founded in 1996 and owned for 100% by the Aegis Group); and (iii) the following domain names registered by the Aegis Group and/or iProspect: <iprospect.it>, <iprospect.pl>, <iprospect.com>, <iprospect.at> and <iprospect.co.uk>.

The Complainant concludes from the above that he owns rights on the name “IPROSPECT” and that the Domain Name is identical to such rights.

Moreover, the Complainant contends that the Domain Name has been registered by the Respondent without rights or legitimate interest in the name and is being used in bad faith (§ 11 d. (1) (ii) and (iii) of the ADR Rules).

According to the Complainant, the Domain Name has been registered by the Respondent without rights or legitimate interest in the name because (i) the Respondent is not commonly known by a name corresponding to the Domain Name; and (ii) the Respondent has no rights on the name “IPROSPECT”.

In addition, the Complainant contends that (i) he has not licensed nor otherwise authorized the Respondent to use the name “IPROSPECT” and (ii) there is no relationship between the Complainant and the Respondent.

Moreover, the Complainant contends that the absence of meaning of the name “IPROSPECT” reinforces the lack of legitimate interest into the Domain Name, knowing that the name “IPROSPECT” has absolutely no generic value.

The Complainant contends also that the Domain Name has been registered in bad faith as would result from the following:

(i) the Complainant sent a cease and desist letter to the Respondent informing the latter that he owns prior rights on the name “IPROSPECT” and requested the transfer of the Domain Name. However, the Respondent did not reply.

(ii) the Domain Name has been registered to mislead consumers. At present, the Domain Name reroutes to a search engine on which there are links in relation with marketing and advertising. As a consequence, the consumers would legitimately associate the website under the Domain Name to the Complainant.

(iii) the Respondent registered the Domain Name for the purpose of selling, renting or otherwise transferring the Domain Name to the Complainant. In this respect, the Complainant refers to the fact that (i) the Domain Name has been registered without any rights or legitimate interest; and (ii) it has been demonstrated that the name “IPROSPECT” is owned by a very well known company. According to the Complainant, the Respondent is a cyber squatter and the Respondent tried to profit from the Domain Name.

B. RESPONDENT

The Respondent failed to file a Response to Complaint.

DISCUSSION AND FINDINGS

The ADR Panel notes that the Respondent failed to file a Response to Complaint. However, this does not prevent the ARD Panel to examine the case on the merits and to accept the Complaint insofar as the Complainant complied with all applicable conditions (See: Case No. 1852 (<airis.eu>), Case No. 982 (<smartmachine.eu>, Case No. 1693 <gastrojobs.eu>, …).

The ADR Panel also notes that the Complainant is the owner of several trade marks related to the name “IPROSPECT” and that the group to which the Complainant belongs, the Aegis Group, and another company owned for 100% by the Aegis Group, iProspect, registered other domain names related to the name “IPROSPECT” or have rights on the name “IPROSPECT”.

The ADR Panel concludes that the Complainant is owner of a right recognized or established by the law of a Member State (i.e. two Benelux trademarks) as mentioned in § 11 d. (1) (i) of the ADR Rules and that the Domain Name is identical to the name “IPROSPECT” protected by the Complainant’s Benelux trademarks.

Moreover, the ADR Panel finds that the Respondent has registered the Domain Name without rights or legitimate interest in the name and that the Respondent is using the Domain Name in bad faith (§ 11 d. (1) (ii) and (iii) of the ADR Rules). The ADR Panel also finds that it is not established that the Respondent is commonly known by a name corresponding to the Domain Name and/or that the Respondent has rights on the name “IPROSPECT”.

Additionally, the Panel finds that the Domain Name has been registered and/or is used in bad faith for the following reasons: (i) the Respondent did not reply on the cease and desist letter sent by the Complainant; and (ii) the Domain Name is used for a search engine on which there are links in relation with, amongst others, marketing and advertising and could therefore mislead the consumers who could associate the website under the Domain Name to the Complainant.

On these grounds the ADR Panel concludes that the Domain Name is to be transferred to the Complainant.

DECISION

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

PANELISTS

Name	**Gunther Meyer**

DATE OF PANEL DECISION 2007-05-05

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant is owner of two Benelux trademarks related to the name “IPROSPECT”. One day after the expiration of the second Sunrise period, the Respondent obtained the registration of the domain name <iprospect.eu> (hereinafter: “Domain Name”). Following this registration the Complainant filed a Complaint and requested the transfer of the Domain Name. The Respondent did not file a Response to Complaint. This does, however, not prevent the ADR Panel to decide on the case.

The ADR Panel finds that the Respondent has registered the Domain Name without rights and/or legitimate interest in the name and that the Domain Name has been registered and/or is used in bad faith.

The ADR Panel concludes the Domain Name is to be transferred to the Complainant.