Panel Decision for dispute CAC-ADREU-004352

Case number	CAC-ADREU-004352
Time of filing	2007-05-09 09:32:35
Domain names	baumatic.eu

Case administrator

Name	Josef Herian

Complainant

Organization / Name	Enzo Balestrazzi

Respondent

Organization / Name	Daniel Brunke

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 which relate to the disputed domain name.

FACTUAL BACKGROUND

1. Mr. Daniel Brunke (hereinafter “the Respondent”) applied for the domain name baumatic.eu (hereinafter the "Domain Name”). The Domain Name was registered on 11 July 2006.

2. ADR proceedings were initiated Enso Balestrazzi as a representative for Baumatic (hereinafter “the Complainant”) to transfer the Domain Name to the Complainant.

3. The Respondent failed to submit a response.

A. COMPLAINANT

The Complainant contends as follows:

1. The Complainant is the holder of the International Registration No. 650050, “Baumatic”, which has been registered on 16 February 1996.

2. The Respondent has no rights of legitimate interest in the disputed Domain Name.

3. The Respondent as a holder of the Domain Name has not used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or made demonstrable preparations to doing so.

4. The Respondent as a holder of the Domain Name is not commonly known by the Domain Name.

5. The Respondent misuses the Domain Name.

6. The Domain Name has been registered in bad faith.

The Complainant requests that the disputed Domain Name be transferred to the Complainant.

B. RESPONDENT

The Respondent did not submit a response.

DISCUSSION AND FINDINGS

1. Paragraph 11(d) (1) of the.eu Alternative Dispute Resolution Rules (the "ADR Rules") states that the Panel shall issue a decision granting the remedies requested under the Procedural Rules in the event that the Complainant proves that:

(i) The domain name is identical or confusingly similar to a name in respect of which a right is recognized or established by the national law of a Member State and/or Community law and; either
(ii) The domain name has been registered by the Respondent without rights or legitimate interest in the name; or
(iii) The domain name has been registered or is being used in bad faith.

2. The Complainant is the legitimate holder of a trademark registration which is identical with the Domain Name, namely that of an International Trademark registration Nr. 650050 for the mark Baumatic, which is designated in several EU countries. Thus the condition under (i) above is satisfied.

3. As to the condition (ii), the Panel is not aware of any rights or legitimate interests of the Respondent in the Domain Name. Thus, the said condition is satisfied. As the points (i) and (ii) of Paragraph 11(d) (1) of the ADR Rules were satisfied, there is no need for the Panel to consider point (iii) of the said Paragraph.

4. The Complainant has established a prima facie lack of rights or legitimate interest in the Domain Name on part of the Respondent. The Respondent has failed to submit a response to these ADR proceedings to present any evidence of rights or legitimate interest in the Domain Name. Thus, the Panel is not aware of any considerations, which should be taken into account on behalf of the Respondent with regard to the above matters and must, as a consequence, come to the conclusion that the Respondent has registered the Domain Name without rights or legitimate interest in the name

DECISION

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

PANELISTS

Name	**Nils Jan Henrik af Ursin**

DATE OF PANEL DECISION 2007-08-27

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant is the holder of an International Registration for the trademark Baumatic, which is identical with the domain name registration baumatic.eu. The Respondent does not have any rights or legitimate interests in the said domain name and failed to submit a response. The domain name was transferred to the Complainant.