Panel Decision for dispute CAC-ADREU-004515

Case number	CAC-ADREU-004515
Time of filing	2007-06-25 09:34:35
Domain names	camlock.eu

Case administrator

Name	Tereza Bartošková

Complainant

Organization / Name	Camlock Systems Limited, Mr. Brian John Heasman

Respondent

Organization / Name	Zheng Qingying

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 Panelist is not aware of any other legal procedings which are pending or decided and which relate to the disputed domain name.

FACTUAL BACKGROUND

1. The Complainant is a company registered in the United Kingdom with company number 1323911.

2. The Complainant is the registered proprietor of the UK trade mark number 2122308 for CAMLOCK systems plc registered on 1 August 1997 for classes 06, 09 and 20.

3. The Complainant is also the registered proprietor of Community Trade Mark number 001485697 for the name CAMLOCK for classes 06, 09 and 20.

4. The Complainant is the registrant of domain names incorporating the word CAMLOCK including registrations for camlock.co.uk registered on 3 October 1996 and camlock.com registered on 7 October 1996

5. The disputed domain name was registered to the Respondent on 14 November 2006.

A. COMPLAINANT

The Complainant contends that:

1. The domain name CAMLOCK is identical to the Complainant’s trading name and registered trade marks and relies on the following:

a. European Community Trade Mark No. 001485697 name CAMLOCK registered 02/05/2001 for Nice Classifications 6, 9 and 20

b. United Kingdom Trade Mark No. 2122308 name CAMLOCK systems plc registered 17/09/1997 for classes 06, 09 and 20.

2. CAMLOCK is identical to other domain names registered by the Claimant, as follows:

a. camlock.co.uk

b. camlock.com

c. camlock.cc

d. camlock.ws

e. camlock.us

3. The Respondent does not carry on, or intend to carry on, any business or activity using the name CAMLOCK and registered the name without any rights or legitimate interest in the name CAMLOCK.

4. The domain name has been registered in bad faith, in that:

a. when asked to transfer the domain name to the Claimant, the Respondent offered to sell the domain name for £800.

b. evidence of the availability of camlock.eu for sale is also shown on the website sedo.co.uk which is accessed when entering www.camlock.eu on an internet browser.

c. the Respondent is cyber-squatting and, even though the Respondent had no established or intended personal of use of the names in question, applied to register names which had been the subject of failed sunrise applications, knowing that the sunrise applicants wanted to acquire registration of those names.

5. The Complainant refers to the following eight .eu ADR Panel Decisions involving the Respondent in which the disputed domain was ordered to be transferred to the claimant in the respective proceedings:

a. ADR 02325 – Glen Dimplex UK Limited v Zheng Qingying

b. ADR 02986 – Security Center GmbH & Co. v Zheng Qingying

c. ADR 03510 – Big Dutchman AG v Zheng Qingying

d. ADR 03588 – Merck KgaA v Zheng Qingying

e. ADR 03641 – Fundació Esade v Zheng Qingying

f. ADR 03773 – Merck Santé v Zheng Qingying

g. ADR 03885 – FGSPORT S.r.l v Zheng Qingying

h. ADR 04229 – Ornellaia Società Agricola S.r.l. v Zheng Qingying

6. The Complainant satisfies the general eligibility criteria for registration set out in Article 4 (2) (b) of EC Regulation No. 733/2002 by reason of the fact that it's principal place of business is located within the European Community namely, 3, Park View, Compton Industrial Estate, Eastbourne, East Sussex, BN23 6QE, United Kingdom

B. RESPONDENT

The Respondent did not file a Response.

DISCUSSION AND FINDINGS

Article 22 of Commission Regulation (EC) number 874/2004 ("the Regulation") provides that an ADR procedure may be initiated by any party where the registration is speculative or abusive within the meaning or Article 21.

In accordance with Article 21 of the Regulation, a registered domain name shall be subject to revocation where the 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) it has been used in bad faith.

Once the Complainant has established that the Domain Name is identical or confusingly similar to a name in respect of which a Right is recognised or established by national law of a member state and/or community law, the Complainant has only to prove one of the elements set out in Article 21 1.(a) or (b), namely, that it is registered without rights or legitimate interests in the name or has been registered or used in bad faith.

RIGHTS

The Domain Name is identical to a name in respect of which the Complainant has Rights recognised by national law of a member state and also by community law by virtue of its UK and Community Trade Mark registrations for the name CAMLOCK. Further, the name CAMLOCK forms part of the Complainant's corporate name, Camlock Systems Limited, and is used in connection with its domain names, camlock.co.uk and camlock.com.

NO LEGITIMATE INTERESTS

The Respondent has not filed a Response in time or at all, and there is no evidence before the Panel of any legitimate interest of the Respondent in the Domain Name. According to Article 22(10) of the Regulations, failure of any of the parties involved in an ADR proceeding to respond within the given deadlines may be considered grounds for accepting the claims of the other party. Further, Rule 10(a) of the ADR Rules states that in the event of a default, the Panel shall proceed to a decision and may consider the failure to comply as grounds to accept the claims of the other party. Under Rule 10(b) of the ADR Rules, unless otherwise provided, the Panel shall draw such inferences from a default as it considers appropriate. The Panel is obliged under Rule 11(a) of the ADR Rules to decide a Complaint on the basis of the statements and documents submitted and in accordance with the ADR Rules, the Supplemental ADR Rules and Regulations 733/2002 and 874/2004.

In the absence of a Response or any evidence showing a legitimate interest or fair use of the Domain Name by the Respondent, the Panelist finds that the Respondent had no rights or legitimate interests in the Domain Name.

BAD FAITH

Having determined that the Respondent has no rights or legitimate interest in the Domain Name it is not necessary to determine whether it has been registered in bad faith as alleged by the Complainant. However, for completeness it is proposed to address this issue.

Under Article 21(3) of the Regulations, bad faith may be demonstrated in a number of ways, including where 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.

In an email submitted by the Complainant dated 30 November 2006 from the Respondent, the Respondent wrote: "Thank you for your mail. I can accept £800 (Pounds Sterling) to transfer ownership of the domain to you. How about?"

In addition to the email from the Respondent offering the Domain Name for sale, the Complainant has filed as evidence a copy of a page from the website www.sedo.co.uk which offers the Domain Name for sale.

The Respondent has not elected to file a Response to the Complainant's assertions that the Domain Name was registered in bad faith. The PanelistI finds, on the evidence submitted, that the Domain Name was registered primarily for the purpose of selling 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 as set out in Article 21 3.(a) of the Regulation.

In addition, under Article 21 3(b)(i) of the Regulation, bad faith may also be shown where the Domain Name has been registered in order to prevent the holder of the name in which a right is recognised or established by national and/or Community law from reflecting that name in a corresponding domain name provided that a pattern of such conduct can be demonstrated. The Complainant has referred to eight cases where the Respondent has applied to register domain names where a right is recognised by national and /or Community law. As demonstrated by the large number of domain names involving the Respondent in circumstances similar to the present case, it is beyond doubt that the Respondent has been engaged in a pattern of conduct aimed at preventing the holder of a name in which a right is recognised or established under national/and or Community law from reflecting that name in a corresponding domain 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 CAMLOCK be transferred to the Complainant.

PANELISTS

Name	Veronica Marion Bailey

DATE OF PANEL DECISION 2007-10-21

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant is a company registered in the United Kingdom. It is the registered proprietor of the UK trade mark for the name CAMLOCK registered on the 17/09/1997 and Community Trade Mark registered on 02/05/2001and is the registrant of domain names incorporating the word CAMLOCK including camlock.co.uk registered on 3 October 1996 and camlock.com registered on 7 October 1996.

The Respondent registered the disputed domain name on 14 November 2006.

The Respondent did not file a Response to these proceedings

It was found that the Domain Name is identical to a name in respect of which the Complainant has rights recognised by national and Community law by virtue of its UK and Community Trade Mark registrations for the name CAMLOCK. Further, the name CAMLOCK forms part of the Complainant's corporate name, Camlock Systems Limited, and is used in connection with its domain names, camlock.co.uk and camlock.com.

In the absence of a Response or any evidence showing a legitimate interest or fair use of the Domain Name by the Respondent, the Panelist found that the Respondent had no rights or legitimate interests in the Domain Name.

It was also found that the Domain Name was registered in bad faith on two grounds:

(i) as set out in Article 21 3.(a) of the Regulation in that, on the evidence submitted, the Domain Name was registered primarily for the purpose of selling or otherwise transferring it to the holder of such a name in respect of which a right is recognised or established by national and/or Community law;

(ii) under Article 21 3.(b)(i) of the Regulation in that the registration of the Domain Name was a blocking registration and a pattern of such conduct could be demonstrated. The Complainant referred to eight cases where the Respondent applied to register domain names where a right is recognised by national and /or Community law. As demonstrated by the large number of domain names involving the Respondent in circumstances similar to the present case, it is beyond doubt that the Respondent has been engaged in a pattern of conduct aimed at preventing the holder of a name in which a right is recognised or established under national or Community law from reflecting that name in a corresponding domain name.

For the reasons set out the Panelist determined that the Domain Name camlock.eu be transferred to the Complainant.