Panel Decision for dispute CAC-ADREU-004517

Case number	**CAC-ADREU-004517**
Time of filing	**2007-06-14 14:04:55**
Domain names	**realemutua.eu**

Case administrator

Name	**Tereza Bartošková**

Complainant

Organization / Name	**Reale Mutua Assicurazioni, Mr Filippo Manassero**

Respondent

Organization / Name	**Zheng Qingying**

FACTUAL BACKGROUND

The Complainant intended to register a .eu domain corresponding to its trade mark Reale Mutua further to those with CCTld .it and .com, but a search on the Whois database at the Eurid Registry revealed that the domain realemutua.eu had already been registered by the Respondent on 19 September 2006 (Annex 11).

The attorneys of the complainant sent a cease and desist letter to the Respondent on 28 March 2007 and 5 April 2007 (Annex 12 and Annex 13) inviting the latter to transfer the disputed domain to the Complainant, but the Respondent declined to abide to such request and in return offered the same domain name for sale (Annex 14).

A. COMPLAINANT

Società Reale Mutua di Assicurazioni (hereinafter “Reale Mutua” or “Complainant”) is an insurance company established in Torino, Italia, in 1828 (see Annex 2).

Reale Mutua operates a large number of businesses in the insurance industry (see Annex 3), and further to being the first Italian insurance company to be established, is largely known in Italy and Europe as one of the major insurers (see Annex 4).

Reale Mutua operates directly in Spain, and at European Level, is an active member of AISAM (Association Internationale d’Assurance Mutuelle, with registered office in Brussels, see Annex 5). Reale Mutua owns a large number of registered trade marks, unregistered trade marks, trade names, domain names, in connection with the activities carried out in the insurance industry.

B. RESPONDENT

Respondent did not file any response.

DISCUSSION AND FINDINGS

Abusive registration by the Respondent

According to Art. 21 of EC Reg. 874/2004 “A registered domain name shall be subject to revocation, using an appropriate extra-judicial or judicial procedure, 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, such as the rights mentioned in Article 10(1), and where it: (a) has been registered by its holder without rights or legitimate interest in the name; or (b) has been registered or is being used in bad faith.”

Identity and confusing similarity

Panelist shares Complainant's opinion that the disputed domain name registered by the Respondent is clearly identical and/or confusingly similar to Complainant's Prior Rights and Domains. The Complainant provided evidence of prior registration and use of such Prior Rights and Domains under Annexes 6 to 10, which reveal that the Complainant has consolidated and undisputed rights to such names.

No legitimate interest of the Respondent

The Respondent registered the disputed domain without rights or legitimate interest in the name Reale Mutua, as the respondent has no title whatsoever to such name, this being a Prior Right and also the second level domain of the Domains.

The Respondent may not claim any legitimate interest under art. 21 (2) EC Reg. 874/2004, as (i) the Respondent has never used the disputed domain and still there is no active website for the disputed domain (see Annex 15), (ii) the Respondent has not been and is not known by the disputed domain name, there being no active website accessible through the disputed domain name (see again Annex 15); (iii) the Respondent is not making any legitimate and non-commercial or fair use of the disputed domain name there being no use of the disputed domain name, as indicated under point (i) and (ii) above.

Bad faith of the Respondent

Panelist is of the opinion that Respondent registered the disputed domain name in bad faith within the meaning of art. 21 (1) (b) and (3) of EC Reg. 874/2004 as the Respondent: (i) is clearly engaged in the registration of a vast number of domain names identical or confusingly similar to third party registered trademarks (see, among others: • Panel Decision of ADR Center for .eu domain attached to the Arbitration Court of the Economic Chamber of Czech Republic and Agricultural Chamber of the Czech Republic – Czech Arbitration Court, held on 12 April 2007, Case No. 04229 filed on 07 February 2007 “Ornellaia Società Agricola S.r.l., Leonardo Raspini v. Zheng Qingying”; • Panel Decision of ADR Center for .eu domain attached to the Arbitration Court of the Economic Chamber of Czech Republic and Agricultural Chamber of the Czech Republic – Czech Arbitration Court, held on 21 January 2007, Case No. 02986 filed on 15 September 2006 “Security Center GmbH & Co. KG, Andreas Kupka v. Zheng Qingying” ; • Panel Decision of ADR Center for .eu domain attached to the Arbitration Court of the Economic Chamber of Czech Republic and Agricultural Chamber of the Czech Republic – Czech Arbitration Court, held on 12 January 2007, Case No. 03588 filed on 08 November 2006 “Merck KGaA, Jonas Kölle v. Zheng Qingying”; • Panel Decision of ADR Center for .eu domain attached to the Arbitration Court of the Economic Chamber of Czech Republic and Agricultural Chamber of the Czech Republic – Czech Arbitration Court, held on 19 February 2007, Case No. 03641 filed on 14 December 2006 “Fundació Esade v. Zheng Qingying”; • Panel Decision of ADR Center for .eu domain attached to the Arbitration Court of the Economic Chamber of Czech Republic and Agricultural Chamber of the Czech Republic – Czech Arbitration Court, held on 02 November 2006, Case No. 02325 filed on 19 July 2006 “Glen Dimplex UK Limited, Mr Laurence George v. Zheng Qingying” ; • Panel Decision of ADR Center for .eu domain attached to the Arbitration Court of the Economic Chamber of Czech Republic and Agricultural Chamber of the Czech Republic – Czech Arbitration Court, held on 09 February 2007, Case No. 03773 filed on 20 December 2006 “Merck Santé, Jonas Kölle v. Zheng Qingying”) (ii) repeatedly offered for sale the disputed domain name (see Annex 14 and 16) (iii) made no use whatsoever of the disputed domain from the date of registration (see again Annex 15).

Eligibility of the Complainant

The Complainant is entitled to be assigned the disputed domain name being an undertaking having its registered office, central administration and principal place of business within the Community, under art. 4 (2) (b) (i) of EC Reg. 733/2002 and

for the purpose of being assigned the disputed domain name the Complainant hereby declares pursuant to art. 3 of EC Reg. 874/2004: (i) that the party requesting the assignment of the disputed domain is Società Reale Mutua di Assicurazioni, Via Corte d'Appello 11, 10122, Torino, Italia (ii) that the proof of the satisfaction of the eligibility criteria set forth by art. 4 (2) (b) (i) of EC Reg. 733/2002 is the output of the search at the Companies House attached to this Complaint under Annex 2 (iii) that the assignment to the Complainant of the disputed domain name is requested in good faith and would not infringe any third party rights as the Complainant is the owner of the trade marks and trade names corresponding to the disputed domain name (iv) to undertake to abide by all the terms and conditions for registration, including the policy on the extra-judicial settlement of conflicts set out in Chapter VI of EC Reg. 874/2004.

DECISION

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

PANELISTS

Name	**Riccardo Roversi**

DATE OF PANEL DECISION 2007-10-04

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

A domain registered in the absence of any legitimate interest, which is subsequently offered for sale to a party having an interest, shall be considered as used in bad faith and therefore transferred to Complainant.