Panel Decision for dispute CAC-ADREU-004678

Case number	CAC-ADREU-004678
Time of filing	2007-09-06 09:41:32
Domain names	bano.eu

Case administrator

Name	Josef Herian

Complainant

Organization / Name	josef bano

Respondent

Organization / Name	Bernadette Selim Abou Zakhm

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 of which the Panel is aware.

FACTUAL BACKGROUND

Since January 18, 1985 the Complainant, Josef Bano, has been the registered proprietor of Austrian trade mark BANO, No. 107980 and since February 12, the registered proprietor of International trade mark BANO, No. 916 491 for cosmetics in class 3 and pharmaceuticals in class 5. In December 2005 the Complainant applied to register the domain name BANO but because of a formal mistake his application was denied. See case number 03141.

The domain name BANO was registered by the Respondent on February 13, 2007.

On September 3, 2007, the Complainant filed this Complaint in German with the Czech Arbitration Court ('CAC'). An Amended Complaint in English was filed on September 11, 2007.

After the verification of formal requirements of the .eu Alternative Dispute Resolution Rules ("ADR-Rules") and the CAC Supplemental ADR Rules, CAC formally notified the Respondent of the Complaint in accordance with the ADR-Rules, paragraph B2 and the proceedings commenced on September 18, 2007. In accordance with Article B 3(a) of the ADR-Rules, the due date for Response was October 30, 2007.

No Response was filed.

On November 16, 2007, having received the Statement of Acceptance and Declaration of Impartiality, the CAC appointed Alan Lawrence Limbury as sole Panelist, in accordance with the ADR-Rules, Paragraph B4(b).

On November 21, 2007 the Respondent, in a Nonstandard Communication, consented to the transfer of the domain name to the Complainant.

A. COMPLAINANT

The Complainant claims to be entitled to the domain name BANO and seeks its transfer to him by virtue of his trade mark registrations.

The Complainant says the Respondent most probably does not own any rights in the name BANO, which may have been registered in bad faith because it has not been used.

B. RESPONDENT

The Respondent consents to the transfer of the domain name to the Complainant.

DISCUSSION AND FINDINGS

Having regard to the Respondent's consent to transfer, the Panel has considered only whether the Complainant is eligible to hold the domain name. The Panel finds that the Complainant satisfies the general eligibility criteria for registration set out in Paragraph 4(2)(b) of Regulation (EC) No 733/2002.

DECISION

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

PANELISTS

Name	**Alan Lawrence Limbury**

DATE OF PANEL DECISION 2007-11-28

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant, a resident of Austria, holds Austrian and International trademark registrations for BANO. Due to a formal mistake, his 2005 application to register the domain name BANO was rejected.The Respondent registered that domain name in February 2007. She consents to its transfer to the Complainant, who is eligible to hold it. Accordingly transfer to the Complainant is directed.