Panel Decision for dispute CAC-ADREU-005031

Case number	**CAC-ADREU-005031**
Time of filing	**2008-04-28 13:03:39**
Domain names	**e-dialog.eu**

Case administrator

Name	**Tereza Bartošková**

Complainant

Organization / Name	**e-dialog KG, Stepke**

Respondent

Organization / Name	**Manuela Pirmandi, Manuela Pirmandi**

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

No legal proceedings are known to the Panel in connection with the disputed domain name.

FACTUAL BACKGROUND

Complainant requests the transfer of the domain name "e-dialog".

A. COMPLAINANT

The Complainant is a consulting company founded in 2003. The general partner and representative of this company registered the domain www.e-dialog.at in 2003. The Complainant is also the owner of the trade mark “e dialog”

The domain www.e-dialog.eu was registered by the Respondent on 2006-04-10. It was never used since its registration, i.e. for more than two years.

Therefore, the Complainant is of the opinion that the Respondent does have no legitimate interest as to this domain and does act in bad faith since it prevents the use of this domain by the Complainant being the owner of name and trade mark corresponding to this domain. The registration of the domain name "e-dialog.eu" in favor of the Respondent was an infringement of the Complainant’s trademark rights.

B. RESPONDENT

The Respondent did not react to the notification of the commencement of ADR Proceeding and did not file a response.

DISCUSSION AND FINDINGS

1. The Complaint was received by the Czech Arbitration Court by e-mail on 2008-04-17 and in hardcopy on 2008-05-19.

2. The time of filing of this Complaint was 2008-04-28.

3. Together with the Complaint (amended on 2008-05-15) the Complainant did (i.a.) transfer an extract from the Austrian Register of Companies dated 2008-04-01 (showing that it’s registered name is “e-dialog KG”) and a certificate of the Austrian Patent Office dated 2003-08-07 (confirming that the unlimited partner of the Complainant is the owner of the trademark “e dialog”).

4. ADR proceedings did commence on 2008-05-19.

5. The ADR Center for .eu attached to the Czech Arbitration Court notified the Respondent on 2008-06-20 that proceedings commenced

and that the time for submitting a Response expires on 2008-07-01.

6. On 2008-07-02 the ADR Center informed the Respondent that she has failed to file the Complaint in due time and that ADR proceedings will continue.

7. According to Paragraph B 10 (a) of the ADR Rules, the Panel shall proceed to a decision of the Complaint if a party does not comply with any of the time periods established by the Rules. The Panel may consider the failure to comply as grounds to accept the claims of the other party.

9. Paragraph B 10 (b) of the ADR Rules provides that the Panel shall qualify the fact that a party does not comply with any provision of the ADR Rules as it considers appropriate.

10. Following Paragraph B 11 (a) of the ADR Rules, the Panel shall decide a Complaint on the basis of the statements and documents submitted and in accordance with the Procedural Rules.

11. In this case, the Respondent did not react to the commencement of ADR Proceedings. Also, she did not file a Response, despite the ADR Center having provided her with all the relevant information and despite informing her of the consequences of a default.

12. Paragraph B 11 (b) of the ADR Rules states that the remedies available for the Complainant (since the Respondent is the domain name holder of the relevant domain name) shall be limited (i.a.) to the transfer of the disputed domain name to the Complainant, if the Complainant satisfies the general eligibility criteria for registration set forth in Paragraph 4(2)(b) of Regulation (EC) No. 733/2002.

13. The Complainant is a company based in Vienna, i.e., within the EC. Therefore, it fulfils the criteria mentioned in Paragraph 4(2)(b) of Regulation (EC) No. 733/2002.

14. According to Paragraph B 11 (d) (1) of the ADR Rules, a Complainant does in general have had to prove 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.

15. According to Paragraph B 11 (f) (2) (ii) of the ADR Rules the fact that the domain name has not been used in a relevant way for at least two years from the date of registration can be qualified as evidence of the registration of a domain name in bad faith.

16. The Complainant did prove that the domain name www.e-dialog.eu is identical to its own name and to the trade mark registered on behalf of its unlimited partner (and owner). Proceedings did not provide any right or legitimate interest of the Respondent concerning this domain. Proceedings did not provide any proof that the domain is or has been used by the Respondent.

17. The Panel follows Paragraph B 10 (a) of the ADR Rules and considers the failure of the Respondent to file a response as reason to accept the claim of the Complainant. Furthermore, the documents transferred together with the Complaint do give an indication that the circumstances as mentioned in Paragraph B 11 (d) (1) of the ADR rules have been established.

18. The Panel evaluates these facts in accordance with Paragraph B 10 (a) and (b) and Paragraph B 11 (a) of the ADR Rules and decides to accept the claim of the Complainant.

DECISION

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

PANELISTS

Name	**Christoph Haidlen**

DATE OF PANEL DECISION 2008-07-28

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

1. The Complaint did - together with its complaint - transfer (i.a.) an extract from the Austrian Register of Companies (showing that it's registered name is "e-dialog KG") and a certificate of the Austrian Patent Office (confirming that the unlimited partner of the Complainant is the owner of the trademark "e dialog").

2. The ADR Center for .eu notified the Respondent of the commencement of the proceedings and about the time for submitting a Response.

3. The Respondent failed to submit a Response.

4. The Panel evaluates these facts in accordance with Paragraph B 10 (a) and (b) and Paragraph B 11 (a) of the ADR Rules and has decided to accept the claim of Complainant.

5. The domain name "e-dialog" is to be transferred to Complainant.