Panel Decision for dispute CAC-ADREU-005198

Case number	**CAC-ADREU-005198**
Time of filing	**2008-09-11 08:39:01**
Domain names	**doka.eu**

Case administrator

Name	**Tereza Bartošková**

Complainant

Organization / Name	**Doka GmbH**

Respondent

Organization / Name	**Hanoki Ltd**

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 other legal proceedings related to the contested domain name.

FACTUAL BACKGROUND

On 7 April 2007, the Respondent registered the contested domain name. The Complaint was filed on 11 September 2008 and on 19 September 2008 the EURid verified that the Respondent is the registrant of the contested domain name.

The Respondent was notified of the Complaint on 22 September 2008. Because the Respondent failed to file a response, the Center issued a notification of Respondent default on 20 November 2008.

A. COMPLAINANT

Complainant contends that it is the owner of the Community Trade Mark registration No 45930 DOKA, that the mark is identical to the domain name, that the Respondent does not hold any rights to the domain name and that the Respondent has registered the domain name in bad faith stating that because the domain name is not in use, its passive posession prevents the Complainant from registering the same.

B. RESPONDENT

The Respondent did not file a reply.

DISCUSSION AND FINDINGS

To succeed in its Complaint, the Complainant must show that the requirements of Article 21(1) of the Commission Regulation (EC) No. 874/2004 have been complied with. That paragraph reads as follows:

"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 recognized 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."

Article 22(10) of the Regulation and Paragraph B10(a) of the ADR rules provide that:

“In the event that a Party does not comply with any of the time periods established by these ADR Rules or the Panel, the Panel shall proceed to a decision on the Complaint and may consider this failure to comply as grounds to accept the claims of the other Party”.

The Complainant has provided sufficient evidence that it is the proprietor of the Community Trade Mark registration No 45930 DOKA, which has been registered before the contested domain and which registration is in full force.

The mark is identical to the contested domain name. The Complainant has, therefore, satisfied the requirements of the first paragraph of Article 21(1).

The Complainant has further asserted that the domain is not in use, that the Respondent is not known by the name and does not hold any exclusive rights or rights of any nature to the Domain name.

These assertions are not contradicted by the Respondent. Should the Respondent have rights or legitimate interests to the domain name, the Panel assume that it would have advised the Panel of the same. As no response was filed, the Panel therefore accepts that the Respondent does not have rights or legitimate interests to the contested domain name.

In the absence of any submission on the issue from the Respondent, the Complainant has satisfied the requirements of Article 21(1)(a). It is therefore not necessary to examine the Complainant’s assertion of the Respondent’s bad faith.

DECISION

For all the foregoing reasons, in accordance with Paragraphs B12 (b) and (c) of the Rules, the Panel orders that

the domain name DOKA be transferred to the Complainant

PANELISTS

Name	**Tuukka Ilkka Airaksinen**

DATE OF PANEL DECISION 2008-12-09

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant is the proprietor of an identical Community Trade Mark registration and alleged that the Respondent does not have rights or legitimate interests to the domain name. Because no response was filed, the Complainant's assertion of no rights or legitimate interest on part of the Respondent was accepted and the domain was ordered to be transferred to the Complainant.