Panel Decision for dispute CAC-ADREU-005438

Case number	**CAC-ADREU-005438**
Time of filing	**2009-06-26 13:37:11**
Domain names	**alinea.eu**

Case administrator

Name	**Josef Herian**

Complainant

Organization / Name	**Alinea**

Respondent

Organization / Name	**Antonio Novak**

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 any other legal proceedings related to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is a French firm (extract from the French Companies Register provided as Annex 1 of the Complaint), specialized in furniture and interior design. Complainant is the owner of the following trademarks for ALINEA:

- French Registration N°1 640 495, of February 3, 1989, in classes 11, 19, 20, 21, 27
- French Registration N°1 313 711, of April 10, 1985, in class 24
- International Registration N°709 653 designating Bulgaria, Benelux, Czech Republic, Germany, Spain, Hungaria, Italy, Poland, Portugal, of February 26, 1999 in classes 11, 20, 21, 24 and 27 (extract from trademark databases provided as Annex 2 of the Complaint).

An extract of the trademarks databases concerning those marks are enclosed in annex 2.

The complainant is also the holder of the domain name <alinea.fr> since September 18, 1997.

The Respondent registered the disputed domain name on October 11, 2008, however no specific information is provided about the Respondent's business activities (apart from what is mentioned below under "Parties' Contentions: Complainant).

The Complaint was received by e-mail on June 2, 2009, and in hardcopy on June 6, 2009 by the Czech Arbitration Court.

In accordance with Paragraph B2 (a) of the .eu Dispute Resolution Rules (ADR Rules), the Czech Arbitration Court has verified that the Complaint satisfies the formal requirements of the ADR Rules and ADR Supplemental Rules of the Czech Arbitration Court. The payment in the required amount to the Czech Arbitration Court has been made by the Complainant.

The formal date of the Commencement of the ADR Proceeding was set to July 7, 2009.

The Respondent did not respond, and a Notification of Respondent's Default was issued on August 28, 2009.

On September 3, 2009, Petter Rindforth was appointed as the panelist in this case. The Projected Decision Date was set to October 4, 2009.

A. COMPLAINANT

The Complainant argues that the disputed domain name is identical to Complainant's company name and registered trademark ALINEA, as well as to Complainant's domain name <alinea.fr>. The Complainant further points to the fact that Complainant's right to ALINEA predates the registration of <alinea.eu>.

The Complainant claims that the Respondent has no rights or legitimate interests in ALINEA or <alinea.eu>, Respondent is not commonly known by the domain name and is not making a legitimate non-commercial or fair use of <alinea.eu>.

The Complainant's searches have not revealed any evidence of the Respondent's use of, or demonstrable preparations to use, the domain name in connection with a bona fide offering of goods or services.

Finally, Complainant refers to the fact that Complainant has recently obtained the transfer of the domain name <alinea.com> (UDRP Decision D2009-0236 of May 12, 2009).

The Complainant requests that the Panel issue a decision that the domain name <alinea.eu> be transferred to the Complainant.

B. RESPONDENT

The Respondent did not respond.

DISCUSSION AND FINDINGS

In order to render a decision, the Panel has to establish whether the conditions of Article 21(1) of Regulation (EC) No. 874/2004 ("the Regulation") are satisfied.

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."

Established Rights?

Article 10(1) lists as relevant prior rights, inter alia, registered national and Community trademarks and, where they are protected under national law, trade names, business identifiers and company names.

The Complainant's registered company name is ALINEA société par actions simplifiée (the latter part indicating the judicial form of the association). The Panel finds that the Complainant has proved its rights to the company name ALINEA, and that this right is recognizable under the meaning of Article 10(1) of the Regulation.

The Complainant also refers to the trademark ALINEA, protected within (parts of) the European Union through the two French national registrations as well as the International Registration designating a number of member states. Accordingly, the Complainant has also proved its trademark rights.

The Panel finds that the Complainant has successfully proved its rights to the company name ALINEA société par actions simplifiée, as well as to the trademark ALINEA.

Identical or confusingly similar?

Having acknowledged that the Complainant has established prior rights to the company name and trademark, the Panel has to decide whether the disputed domain name is identical or confusingly similar to Complainant's name rights.

The words "société par actions simplifiée" is a non-distinctive part of the company name and is therefore excluded from the comparison. It is well-established that the TLD extension of a domain name, in this case ".eu", does not affect the domain name for the purpose of determining whether it is identical or confusingly similar pursuant to Article 21 (1) of the Regulation (see Case No. 00283, lastminute.eu).

Accordingly, <alinea> shall be compared to "ALINEA".

The Panel finds that the disputed domain name is identical to the Complainant's company name and trademark.

Rights or legitimate interest?

The Complainant contends that the Respondent has made no use of, or demonstrable preparations to use, the domain name in connection with a bona fide offering of goods or services, is not making a legitimate non-commercial or fair use of <alinea.eu>, and is not commonly known under the disputed domain name.

The Panel notes that the domain name holder's name or contact details contain no reference to ALINEA or similar word or name. The domain name is not used for any active web site, although it was registered for almost one year ago.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of <alinea.eu>.

Registered or used in bad faith?

As it is so established and concluded by the Panel, that the Respondent has no rights or legitimate interest in the name, it is not necessary to establish whether the disputed domain name is also registered or used in bad faith. Further, the Complainant has not provided any arguments or facts in this respect, and the Respondent has not filed a Response.

DECISION

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

PANELISTS

Name	**Petter Rindforth, LL M**

DATE OF PANEL DECISION 2009-09-30

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

The Complainant's registered French company name is ALINEA société par actions simplifiée, the part "société par actions simplifiée" referring to the company type. Complainant is also the owner of the French and International Trademark registrations for ALINEA (word). The disputed domain name <alinea.eu> is considered identical to Complainant's company name.

The Complainant has argued that the Respondent has no rights or legitimate interests in the domain name. These allegations are supported by the fact that nothing in the Respondent's contact information relates to ALINEA or any similar word, and the domain name has not been used for any active web site since the registration almost one year ago.

Respondent did not respond to the Complaint and has thus not contested the allegations of the Complainant.

The Panel finds that the Respondent has no rights or legitimate interest in the domain name.