Panel Decision for dispute CAC-ADREU-008703

Case number	CAC-ADREU-008703
Time of filing	2025-02-10 15:49:37
Domain names	adone.eu

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	ADONE ApS

Respondent

Organization	Ireneusz Bachurski Przedsiebiorstwo INFO-BI

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 pending or decided legal proceedings related to the disputed domain name.

FACTUAL BACKGROUND

The Complainant is Adone ApS, a Danish company.

The Complainant is the owner of a Danish trade mark registration No. VA 2024 01696 registered on 18 November 2024 in classes 35 and 42 for the word ADONE (“Adone trade mark”).

The disputed domain name is <adone.eu> and it was registered on 8 December 2023. There is no evidence that it has been actively used other than being offered for sale.

The Complainant filed a Complaint on 22 November 2024.

The Respondent did not reply to the Complaint.

A. COMPLAINANT

The Complainant uses the brand "ADONE" in business, making protection of the brand critical.

The Complainant claims that:

- the disputed domain name infringes the Danish trade mark "ADONE";
- the Respondent does not have a legitimate interest in the disputed domain name as it is not being used with any legitimate business, and instead has been offered for sale on platforms such as dan.com; and
- the disputed domain name was registered and is being used in bad faith, as the Respondent expressly attempted to sell the domain to the Complainant.

To prove the above the Complainant has attached to its Complaint information on its company Adone ApS from CVR API (Central Business Register API), trade mark details from the Danish Patent and Trademark Office, and screenshots evidencing its previous contact with the Respondent via the website dan.com where the disputed domain name is offered for sale.

As a result, the Complainant requests the transfer of the domain <adone.eu> to the Complainant to resolve this dispute.

B. RESPONDENT

The Respondent did not reply to the Complainant’s contentions.

DISCUSSION AND FINDINGS

The Panel is to decide, from the facts and arguments of the parties, whether the conditions of Article 4.4 of Reg. (EU) 2019/517 have been satisfied and whether the disputed domain name is to be transferred to the Complainant.

The mentioned Article provide “a domain name may be revoked, and where necessary subsequently transferred to another party, where that name is identical or confusingly similar to a name in respect of which a right is established by Union or national law, **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”.

The same conditions are mentioned in Paragraph B 11(d)(1) of the ADR Rules and are to be applied when deciding whether to grant the remedies requested by the Complainant.

A. Identical or confusingly similar

The Panel finds that the Complainant has substantiated the rights to the trade mark name ‘ADONE’.

The Complainant justifies that it owns a Danish trade mark registration No. VA 2024 01696 registered on 18 November 2024 in classes 35 and 42 for the word ADONE (“Adone trade mark”).

The disputed domain name <adone.eu> and the Adone trade mark should be deemed to be identical. It is well established that the gTLD extension <.eu> within the disputed domain name does not prevent a finding of confusing similarity.

It is observed that the disputed domain name was registered earlier than the Adone trade mark, however the Panel opines that there is no specific reference in law to the date on which the Complainant must have acquired a right. Further, it is not required that the trade mark was registered before registration of the domain, but it is sufficient that a mark is in full effect at the time of the filing of the Complaint (see Overview of CAC Panel Views on Selected Questions of the ADR for .EU Domain Name Disputes, 2nd Edition, page 32). In the present case the Complaint was filed on 22 November 2024 and the Adone trade mark was registered on 18 November 2024.

Moreover, the Complainant has also attached screenshot from CVR API (Central Business Register API) which is a website that permits access to data from the Danish Business Authority's CVR register (Central Virksomhedsregister). The Panel understands that it contains official information about companies in Denmark, which includes CVR numbers, legal forms, addresses, industry codes, ownership details, and financial information. CVR API provides that the company Adone ApS was registered on 11 June 2015, so long before registration of the disputed domain name.

In accordance with Paragraph B 7(a) of the ADR Rules the Panel exercised its right to further investigation and verified the domain name <adone.dk>, which was registered in the name of the Complainant on 13 October 2014.

Given all the above, the first condition set forth under Article 4 of the Regulation and Paragraph B 11(d)(1)(i) of the ADR Rules has been fulfilled.

B. No rights or legitimate interest

In accordance with Paragraph B 11(e)(1)-(3) of the ADR Rules a legitimate interest may be demonstrated where:

(1) prior to any notice of the dispute, the Respondent has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;

(2) the Respondent, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or European Union law;

(3) the Respondent is making legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name in respect of which a right is recognised or established by national law and/or European Union law.

In the present case, none of the described circumstances was established. The Complainant has briefly, but unambiguously, shown that the disputed domain name is not being used for any legitimate business, and instead has been offered for sale.

Once a complainant establishes a prima facie case demonstrating the absence of rights, the burden of proof shifts to a respondent. As the Respondent has failed to reply, no justification has been provided for possessing the disputed domain name.

The attached evidence also shows that the Complainant, independently of the court, informed the Respondent of the deadline for filing his reply in these proceedings. In his reply to the Complainant, the Respondent stated that he did not intend to file any reply in these proceedings. This further indicates that the Respondent would probably be unable to prove a link to the disputed domain name in accordance with the above requirements.

The Respondent does not have rights or legitimate interests in the disputed domain name, and that the condition in Article 4(a) of the Regulation and Article 11(d)(1)(ii) of the ADR Rules has been satisfied.

C. Bad faith

Compliance with the aforementioned conditions is considered to be sufficient to determine that the disputed domain names it to be transferred. However, the Panel will also examine the third condition that is in Paragraph B 11 (d) (1) of the ADR Rules.

In accordance with Paragraph B 11 (f)(1) of the ADR Rules, registering or using the designation in bad faith means situations, whereby circumstances indicate that a domain name was registered or acquired primarily for the purpose of selling, renting or otherwise transferring the domain name to the holder of a name in respect of which a right is recognised or established by national and/or European Union law, or to a public body.

In the present case, the Respondent is offering the disputed domain name for sale to the public at a price of USD 2,490. The Complainant, seeking an amicable resolution, proposed a significantly lower and reasonable amount; however, the Respondent refused to accept anything less than USD 1,590. Furthermore, the Respondent stated that selling domain names is his only occupation, which is why he is unwilling to reduce the price.

This evidence is sufficient for the Panel to decide that the Respondent registered the disputed domain name primarily for the purpose of selling it either to the Complainant or to third persons, for valuable consideration in excess of the documented out-of-pocket costs directly related to the disputed domain name.

Hence, this Panel decides that the disputed domain name has been registered or is being used in bad faith.

D. Eligibility for a transfer of domain name

The Complainant as a company established in Denmark is eligible for transfer to it of a domain name <adone.eu> under Article 3 of Regulation (EU) 2019/517.

DECISION

For reasons that have been mentioned, the Panel, in accordance with Paragraphs B12 (b) and (c) of the Rules, orders that the domain name <adone.eu> be transferred to the Complainant.

PANELISTS

Name	**Wlodzimierz Szoszuk**

DATE OF PANEL DECISION 2025-02-10

Summary

ENGLISH SUMMARY OF THIS DECISION IS HEREBY ATTACHED AS ANNEX 1

I. Disputed domain name: adone.eu

II. Country of the Complainant: Denmark, country of the Respondent: Poland

III. Date of registration of the domain name: 8 December 2023

IV. Rights relied on by the Complainant (B(11)(f) ADR Rules) on which the Panel based its decision:

1. word trade mark registered in Denmark, reg. No. VA 2024 01696, for the term ADONE, filed on 8 September 2024, registered on 18 November 2024 for goods and services in classes 35 and 42
2. company name: ADONE ApS

V. Response submitted: No

VI. Domain name is identical to the protected right of the Complainant

VII. Rights or legitimate interests of the Respondent (B(11)(f) ADR Rules):

1. No
2. Why:

a) No registration of any kind related to the domain name under dispute.

b) Not commonly known by the domain name.

c) The holder of a domain name is not making a legitimate and non-commercial or fair use of the domain name.

VIII. Bad faith of the Respondent (B(11)(e) ADR Rules):

1. Yes
2. Why:

The domain name was registered or acquired primarily for the purpose of selling, renting or otherwise transferring the domain name to the holder

of a name in respect of which a right is recognised or established by national and/or European Union law, or to a public body.

IX. Other substantial facts the Panel considers relevant:

No

X. Dispute Result: Transfer of the disputed domain name

XI. Procedural factors the Panel considers relevant:

No

XII. [If transfer to Complainant] Is Complainant eligible? Yes