

ADR.eu - .eu Alternative Dispute Resolution
ENTSCHEIDUNG DER SCHIEDSKOMMISSION ÜBER DAS
GESUCH UM ÄNDERUNG DER ADR-VERFAHRENSPRACHE
(ENTSCHEIDUNG)



ADR Center for .eu attached to the Czech Arbitration Court attached to the Economic Chamber of the Czech Republic and Agricultural Chamber of the Czech Republic (Czech Arbitration Court)

PANEL DECISION RELATED TO THE REQUEST TO CHANGE THE
LANGUAGE OF ADR PROCEEDING (DECISION)
§ A3 (b) (6) of the .eu Dispute Resolution Rules (ADR Rules)

Case No.: **06764**

Administrative Contact: **Lada Válková**
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Complainant: **Kybun AG**

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Respondent: **Andreas Kratzmeier**

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Domain Name: **kyboot.eu**

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English summary of the decision: English summary of this Decision is hereby attached as Annex 1

Factual Background:

- The Complainant, Kybun AG filed a Request to change the language of ADR proceedings with the Arbitration Court attached to the Chamber of Commerce and Agrarian Chamber of the Czech Republic ("AC") on 16 July 2014.
- AC confirmed the same date the receipt of this Request to the Complainant.
- AC communicated the information provided by Eurid regarding the disputed domain name particularly the language of the registration agreement, i.e. English.
- AC notified the Complainant of an insufficient identification of the Respondent on 18 July 2014.
- The Complainant has amended the Request on 21 July 2014.
- AC notified this Request to the Respondent on 22 July 2014.
- The appointed Panelist submitted his statement of acceptance and declaration of impartiality and independence on 8 August 2014.

Parties' Contentions:

Complainant:

The Complainant, Kybun AG requests to change the language of the ADR proceeding from English into German. This Request is based on following grounds:

- all the correspondence was handled in German which demonstrates that the Respondent is familiar with the German language
- both the Complainant and the Respondent are German parties and therefore there is no reason to conduct this proceeding in English, because German language is more efficient and easier for both parties.

Respondent:

The Respondent did not submit any reply to this Request.

Discussion and Findings:

Under article 3 (a) (1) of the ADR Rules, "in the absence of an agreement between the Parties, the Panel may in its sole discretion, having regard to the circumstances of the ADR Proceeding, decide on the written request of a Complainant, filed before initiating a Complaint, that the language of the ADR Proceeding will be different than the language of the Registration Agreement for the disputed domain name".

The Complainant has not affirmed the existence of any language agreement between the parties, but has demonstrated that the correspondence between the parties was conducted in German and that the Respondent is a German speaking party.

These circumstances are according to the opinion of the Panelist sufficient reason for the change of the language of the ADR proceeding because such change will not adversely affect the rights of the Respondent in this proceeding.

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Decision:

For all the foregoing reasons, in accordance with Paragraphs A3 (b) (6) of the Rules, the Panel orders that the language of future ADR Proceeding shall be **German** if the Complaint with respect to the disputed domain name mentioned above shall be filed within thirty (30) working days from receiving this decision.

Otakar Švorčík

Date: 14.8.2014

Annex 1:

The Complainant filed Request to change the language of ADR proceeding from English into German. This Request was substantiated by the fact that the previous correspondence was handled in German, both parties are German speaking and it will be for them easier and more efficient to conduct the ADR proceeding in German.

The Panelist has found these reasons as sufficient and persuasive for changing the language of ADR proceeding as such change will not adversely affect the rights of the Respondent in the ADR proceeding.