Overview of CAC Panel Views on Selected Questions of the Alternative Dispute Resolution for .EU Domain Name Disputes, 2nd Edition

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Leonardo-Campus 9
48149 Münster

Prof. Dr. Thomas Hoeren / Ass. jur. Matthias Försterling, LL.M. / Mgr. Tereza Bartošková

www.uni-muenster.de/Jura.itm/hoeren/

(Supported by Darja Bäßler, Janina Brandes, Martin Gruszczyk, Erik Hohl, Petr Hostaš, Bastian Kaumanns, Daniel Schembecker, Jan Smolka, Lennart Sydow)

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Czech Arbitration Court in collaboration with

Bird & Bird Advokatpartnerselskab

Europaplads 2
8000 Aarhus C
Denmark

Ass. Proff. Lars Karnøe / Student assistant Sarah Veje Rasmussen / Mgr. Jitka Tǔmová


(Supported by Petr Hostaš, Vojtěch Chloupek, Nikola Balaš)
Introduction

This Overview was created to expose several standpoints of the CAC panels concerning common questions that arise in the alternative dispute resolution proceedings for .eu domain disputes regulated by ADR rules, ADR supplemental rules, EC Regulation 733/2002 and EC Regulation 874/2004. The Overview should offer informal guidelines to parties involved in ADR proceedings. The Overview identifies consensus views and minority opinions among the CAC panels concerning recurring questions.

This Overview is primarily intended to serve as an aid and guide. It does not claim to capture all kinds of important questions of ADR proceedings. Moreover, it has to be understood that ADR proceedings are strongly influenced by many different national legal systems and many different legal opinions. Also, ADR proceedings are affected by particular facts of individual disputes. Facing this background, the purpose of this Overview is to offer the parties a first assistance in finding their own argumentation concerning .eu domain disputes.

The Overview focuses on five major topics: procedural questions, relevant rights of complainants, legitimate rights and interests of respondents, identity or confusing similarity of domain name registrations and bad faith registrations.
Relevant rules


Regulation (EC) No. 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and principles governing registration (hereinafter referred to as PPR)

Amendments to Regulation (EC) No. 874/2004:

Regulation (EC) No 1654/2005
Regulation (EC) No 1255/2007
Regulation (EC) No 560/2009

Procedural Rules:

ADR Rules
ADR Supplemental Rules
Terms used

**Consensus view:** describes view that all or almost all panels who mentioned the issue in a decision agreed on.

**Majority view:** describes view that more than half panels who mentioned the issue in a decision agreed on.

**Minority view:** describes view that less than half panels who mentioned the issue in a decision agreed on; minority view may accompany either consensus or majority view; if it accompanies consensus view it constitutes an exceptional view; if it accompanies majority view it constitutes a view which is neither exceptional nor majority.

**Views 1-x:** used if there are several views none of which preponderates upon others significantly.

**Majority approach:** refers to a description of a practise where no view as such can be tracked; used mainly in cases where the rules give the panel discretion to precede in a way it considers appropriate.

**NOTE:** Where it was not able to formulate a view due to low number of relevant decisions it is stated so.
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I. Procedural questions

1. To what extent is national law relevant to legitimate rights or interests and bad faith?

The role of national law is fairly limited in determining whether a respondent has a legitimate right or interest in a domain name. Those limitations likewise affect determinations of whether a respondent has registered or used a domain name in bad faith.

**Consensus View:** National law is relevant to the existence of prior rights, according to Article 21 paragraph 1 of the PPR. This has been confirmed by several ADR decisions.

**Relevant Decisions:**
City Inn Limited v. World Online Endeavours Limited, CAC 3396, <citycafe.eu>, Denial
VINOS LTD v. Ovidio Limited, CAC 3896, <vinos.eu>, Denial
FGSPORT S.r.l. v. Zheng Qingying, CAC 3885, <worldsbk.eu>, Transfer
VIVARTIA-INDUSTRIAL & COMMERCIAL COMPANY OF FOOD PRODUCTS & CATERING SERVICES v. Anastasios Karkazis, CAC 4099, <vivartia.eu>, Transfer
Schindhelm & Pfisterer Attorney at Law v. Wolf-Dieter Ihle, CAC 4227, <ihle.eu>, Denial
Consensus View: Not surprisingly, there have been decisions addressing the relevance of national law with respect to legitimate rights or interests, for instance the protection of family names by German law has been found to be a legitimate right. Similarly, national law can be relevant in relation to the protection of company or trade names and trademarks.

Relevant Decisions:
Boltze Gruppe GmbH v. Birgit Boltze, CAC 5231, <boltze.eu>, Transfer
1&1 Internet AG v. Christian Dahmen, CAC 453, <web.eu>, Denial
DDR Museum Berlin GmbH v. Zheng Qingying, CAC 5094, <ddr-museum.eu>, Transfer

However, there have not been any decisions by panels in ADR-proceedings addressing national law connected to the issue of bad faith.

2. What is the role of precedent in ADR-proceedings?

Consensus View: There is no provision in the PPR, or in the ADR Rules allowing the conclusion that panels are bound by the doctrine of stare decisis. Previous ADR.eu cases are persuasive authority. Panels have departed from such decisions in several instances. However, they tend to give more detailed reasons when departing from previous panel decisions. Regarding the issue of precedent, there is no difference between proceedings under Article 22 (1) a) and proceedings under Article 22 (1) b) of the PPR, as the same provisions are applicable.

Relevant Decisions:
Société Air France v. Lexicon Media, Ltd., CAC 4141, <airfrancesucks.eu> inter alia, Transfer
French Connexion v. EURid, CAC 174, <domaine.eu>, Annullled
Ultrasun International B.V. v. EURid, CAC 541, <ultrasun.eu>, Rejected
carrentals.co.uk v. EURid, CAC 3034, <carrentals.eu>, Annullled
Axel Arnulf Pfennigv. Online Shopping Limited, CAC 3257, <shopping.eu>, Rejected
Schaeffer KG v. Cervos Enterprises Ltd, CAC 3557, <fag.eu>, Transfer
Société Air France v. Lexicon Media Ltd., CAC 4141, <airfrancesucks> inter alia, Transfer
My Home Limited v. MyHome S.A., CAC 4560, <myhome.eu>, Rejected
SHB Innovative Fondskonzepte AG v. Markus Jank, CAC 4700, <shb.eu>, Transfer
Korn/Ferry International Corporation v. Aphrodite Ventures, Limited, CAC 4843, <kornferry.eu>, Revocation
Brand Scout GmbH v. Georg Gottfried, CAC 4863, <babywell.eu>, Transfer
Peuterey Group S.p.A. v. Jimme Hoek, CAC 6884, <peutereyoutletshop.eu>, Transfer

When deciding on a case the Panelists often list or refer to one or several of the decisions listed in this Overview to state that they are following the consensus view of the Panelists. This seems to be the accepted and proper way of stating that the Panelist is following the state of law.

Relevant Decisions:
Peuterey Group S.p.A. v. Jimme Hoek, CAC 6884, <peutereyoutletshop.eu>, Transfer
JD Sports Fashion Plc v. Djamila Bouchemoua, CAC 6843, <chausport.eu>, Transfer
The same is true as to previous decisions under the UDRP. However, one must bear in mind that the UDRP Rules differ from the rules governing ADR.eu proceedings. Therefore, such decisions can provide only limited guidance.

**Relevant Decisions:**
- Stockholms Stad. v. Traffic Web Holding BV, CAC 386, <stockholm.eu>, Rejection
- Emirates v. Stichting Roos Beheer, CAC 9405, <emirates.eu>, Revocation
- JD Sports Fashion Plc, Gareth Price v. Erika Gabler, CAC 7224, <chausports.eu>, Transfer
- Zalando GmbH, Florian Linnardi v. Mickael LAGIER, CAC 6374, <sarenzalando.eu>, Revocation

However, a minority of panels have expressly refused to even discuss precedent.

**Relevant Decisions:**
- HORMEL FOODS CORPORATION v. Markus Koettl, Internetportal und Marketing GmbH, CAC 568, <spam.eu>, Transfer
- Labrada Bodybuilding Nutrition, Inc. v. Timo Kemerink, CAC 4396, <labrada.eu>, Rejection
- Avery Dennison Corporation; Avery Dennison U.K. Ltd., Sapphire v. Dotasterisk Ltd., CAC 5126, <averygraphics.eu>, Transfer

One Panelist also considered precedent from earlier proceedings at the Nominent and NAF decisions in his decision. He reasoned that they are part of the domain arbitration systems.

**Relevant Decisions:**
- The University of Durham, Ms. Paulina Lubacz v. C.I.T., Amit Matalia, CAC 6710, <cem11plus.eu>, Transfer

One Panelist referred and based his decision on a case involving the same parties before a WIPO Panel.

**Relevant Decisions:**
- JD Sports Fashion Plc, Gareth Price v. Erika Gabler, CAC 7224, <chausports.eu>, Transfer

One Panelist also mentioned the views on similarity of trademarks expressed by the European Court of Justice.

**Relevant Decisions:**
- FC Bayern München AG, Dr. Michael Gerlinger v. Duncan Asset Management, Christopher Duncan, CAC 6901, <fc-bayern-munchen.eu>, Transfer

3. Can refiled cases be accepted and if so, under what circumstances?

The question is expressly regulated neither in the PPR nor in the ADR Rules. However, in Paragraph B 12 (a) of the ADR Rules it is stated that decisions of panellists are final and not subject to appeal. Only few decisions have dealt with the issue.

**Consensus View:** When the facts are identical, panels must deny hearing the case based on Paragraph B 12 (a) of the ADR Rules.
Relevant Decisions:
Traffic Web Holding v. EURid, CAC 2291, <barcelona.eu> inter alia, Rejection
Multam BV v. EURid, CAC 2257, <live.eu>, Rejection
Multam BV v. EURid, CAC 2990, <live.eu>, Rejection

In a case where the facts had changed since the original decision, the panel allowed the complainant to restart the proceeding.

Relevant Decision:
Axel Arnulf Pfennig v. Online Shopping Limited, CAC 3257, <shopping.eu>, Rejection

Refiled cases have generally been accepted, when the initial complaint had failed because the complainant had lacked standing and in the second proceeding, the complainant was a different person or entity.

Relevant Decisions:
Prada S.A. v. Maurizio Lussetti, CAC 4316, <prada.eu>, Transfer
Ferriera Valsabbia SpA. v. Lexicon Media, Ltd., CAC 5250, <ferriera-valsabbia.eu>, Transfer

Refiled cases have also been accepted where there were deficiencies in the first complaint that had been amended in the re-filed complaint.

Relevant Decisions:
Otokar Otomotiv ve Savunma Sanayi A.S. v. Gbenga Osoba, CAC 7202, <otokar.eu>, Transfer
People Per Hour Ltd, Mr Michael Luna v. Dreamscape Networks Limited, Web Master, CAC 7234, <peoplehour.eu>, Transfer

4. Can single complaints deal with several domain names?

Consensus View: According to Paragraph B 1 (c) of the ADR Rules, one complaint can relate to more than one domain name, provided that the language of the proceedings and the parties are the same. Decisions in proceedings under Article 22 (1) b) PPR can also be considered as guidance regarding this aspect, as they are governed by the same rules.

Relevant Decisions:
Handys Ltd v. EURid, CAC 1566, <airlinetickets.eu> inter alia, Rejection
White & Case LLP v. Tomáš Nagy, CAC 16838, <whitecase.eu> inter alia, Rejection
ThinkTank EDV-Consulting GmbH v. EURid, CAC 1996, <thinktank.eu> inter alia, Rejection
European Pallet Association, EPAL v. EURid, CAC 2586, <epal.eu>, Rejection
Agora SA v. EURid, CAC 2633, <automot.eu> inter alia, Rejection
International NC I B.V v. Ovidio Ltd, CAC 3748, <endothil.eu>, Transfer
Re-Logic, Inc. v. Kenneth Buhrs, CAC 7166, <teerlia.eu> and <teerlia.eu>, Denial
Inter IKEA Systems B.V., Martin Broden v. PM Meulenijzer, PM Meulenijzer, CAC 6640, <ikeawilrijk.eu, ikeaanderlecht.eu, ikeazaventem.eu>, Transfer
5. Can proceedings be suspended for settlement purposes?

**Consensus View:** Yes. According to Paragraph A 4 (b) of the ADR Rules, the complainant can submit such a request to the provider, or, after the constitution of the panel, to the panel itself.

**Relevant Decision:**
Suomen Osuuskauppojen Keskkuntan v. Minerva GmbH Consulting, CAC 1036, <abc.eu>, Settlement

6. What is the relationship between CAC proceedings and court proceedings?

According to Article 22 (13) of the PPR, a panel decision becomes binding, unless court proceedings are initiated within 30 calendar days of the notification of the decision.

**Consensus View:** An ADR .eu proceeding shall not be prejudiced by any court proceeding according to Paragraph A 5 of the ADR Rules, unless the matter has been finally decided by a court of competent jurisdiction (Paragraph A 4 (c)). As long as court proceedings are pending, panels can proceed to a decision. This is also the case if a previous court decision did not deal with a transfer of the domain name. This could be an injunction requiring the respondent not to use the domain name in connection to the selling of certain goods, for example.

**Relevant Decisions:**
Christian Marolt v. Traffic Web Holding BV, CAC 1505, <hospital.eu>, Rejection
UNIBAIL HOLDING SA v. Ovidio Limited, CAC 2123, <unibail.eu>, Transfer
Germanwings GmbH v. Vassilios Xefteris, CAC 2888, <germanwings.eu>, Transfer
Vortex v. British Sky Broadcasting Ltd, CAC 3409, <skyblog.eu>, Rejection
JACK WOLFSKIN Ausrüstung für Draussen GmbH & Co. KGaA v. THD Concept, CAC 5235, <jackwolfskin.eu>, Transfer

Accordingly, one Panel decided that as the court had competence to decide on the present matter, the Panel followed the courts decision.

**Relevant Decision:**
SmithKline Beecham Limited and SmithKline Beecham Limited v. GSKline Limited, CAC 6341, <gskline.eu>, Transfer

**Minority views:** Paragraph A5 of the ADR Rules relates to court proceedings, but one panellist argued that the rule also applied to proceedings before the trademark registries – maybe even with greater force than regarding court proceedings.

**Relevant Decision:**
The University of Durham, Ms. Paulina Lubacz v. C.I.T., Amit Matalia, CAC 6710, <cem11plus.eu>, Transfer

7. Can registrars be liable as registrants?

In some WIPO cases, panels have held that a registrar could only be liable as a registrant if the registrar was in fact the same person or entity as the registrant. However, such a case has not been de-
cided by a CAC panel yet.

**Relevant Decisions:**
- Pernod Ricard v. Tucows.com Co, WIPO Case No. **D2008-0789**, <ricard.com>, Transfer

8. Do panels have authority to decide cases based on the respondent’s consent to transfer the domain name?

This issue is not expressly regulated. Hence, it is not surprising that a consensus view has not yet developed.

**Majority View:** The domain name is transferred based on the respondent’s consent, unless the complainant does not fulfil the registration criteria.

**Relevant Decisions:**
- International NC I B.V v. Ovidio Ltd, CAC **3748**, <endothil.eu> inter alia, Transfer
- HYDAC Technology GmbH v. Ovidio Ltd, CAC **4000**, <hydac.eu>, Transfer
- MENNO Chemie-Vertrieb GmbH v. EWABO Chemikalien GmbH Co. KG, CAC **4252**, <neopredisan.eu>, Transfer
- Günter Krauter v. Webportal Media Ltd, CAC **5538**, <speq.eu>, Transfer
- Fruit of the Loom Ltd v. Mohammed Ali, CAC **5776**, <russelathletic.eu>, Transfer

**Minority View:** Some panels have taken a different stance and have still decided the cases based on their merits, even when the respondents agreed to a transfer.

**Relevant Decisions:**
- Altova Ges.m.b.H. v. ALTRA-NS LTD, CAC **2219**, <altova.eu>, Transfer
- Unibail Holding SA v. Ovidio Ltd, CAC **2123**, <unibail.eu>, Transfer
- Zoologisk Have v. Name Battery, Ltd., CAC **3942**, <copenhagenzoo.eu>, Transfer
- ASSOCIATION FRANCAISE DU FESTIVAL INTERNATIONAL DU FILM v. EUTeam Ltd, CAC **4082**, <festivaldecannes.eu>, Transfer
- August Storck KG v. World Online Endeavours, Ltd., CAC **4339**, <merci-pur.eu>, Transfer
- BRISTOL-MYERS SQUIBB BELGIUM S.A. v. Aphrodite Ventures, Ltd., CAC **4723**, <videx.eu>, Transfer
- OSIsoft, Inc. v. Fienna, Ltd., CAC **5243**, <osisoft.eu>, Revocation
- FC Bayern München AG, Dr. Michael Gerlinger v. Duncan Asset Management, Christopher Duncan, CAC **6901**, <fc-bayern-munchen.eu>, Transfer

However, the parties are free to settle their dispute (supra I.5.) in the pre-panel phase with transfer being effected by the parties themselves without any intervention of the CAC.

9. Can panels render formal decisions mirroring settlements entered into by the parties?

Paragraph A 4 (a) of the ADR Rules states that the proceeding shall be terminated if a settlement has
been reached by the parties. Nevertheless, panels have issued formal decisions to transfer the domain name according to the settlement agreement several times.

**Relevant Decisions:**
- Česká inženýrská a.s. v. Ovidio Ltd, CAC 4393, <cias.eu>, Transfer
- Continental Airlines, Inc & Continental Airlines Domain Name Ltd v. Kanzlei Berger, CAC 6979, <continentalair.eu>, Transfer
- FRIED Kunststofftechnik GmbH v. Ovidio Limited, CAC 5168, <fried.eu>, Transfer

However, other panels remained more faithful to the exact letters of the ADR Rules and simply terminated the proceedings without issuing judgments in cases of settlements. It is unclear which approach is preferred by the majority of panellists, because when formal judgments were rendered, they had always been requested by the parties.

**Relevant Decisions:**
- Reisebüro Bühler GmbH v. Dom.info e.K., CAC 3757, <flights.eu>, Settlement
- Suomen Osuuskauppojen Keskuskunta v. Minerva GmbH Consulting, CAC 1036, <abc.eu>, Revocation

### 10. What is the proper language of proceedings?

**Consensus View:** According to Article 22 (4) PPR and Paragraph A 3 (a) of the ADR Rules, the proper language is the language used in the registration agreement, an EU-language otherwise specified therein or an EU-language that both parties agreed on.

**Relevant Decisions:**
- Vivartia-Industrial & Commercial company of food & catering services v. Anastasios Karzakis, CAC 2675B, <vivartia.eu>, Rejection
- White & Case LLP v. Tomáš Nagy, CAC 1683B, <whitecase.eu> inter alia, Rejection
- Bookings Europe B.V. v. Stichting Miloma, CAC 4090, <bookings.eu>, Transfer
- Ville de Paris v. H. Klomp, CAC 5598B, <paris.eu>, Rejection
- SANOFI, Carole TRICOIRE v. Poussieres d’Etoiles, poussieres d etoiles, CAC 6492, <oenobio.eu>, Transfer

### 11. What are the proper grounds for changing the language in a language trial procedure?

According to Article 22 (4) PPR, panels have the authority to change the language, having regard to the circumstances of the case. However, until February 1, 2010, the ADR Rules required exceptional circumstances according to Paragraph A 3 (a). Panels have repeatedly found that mere economic reasons were not such exceptional circumstances. It has not been regarded as sufficient that all documents were in the language desired by the complainant and that both parties were able to communicate in that language. Also, financial reasons and the fact that the respondent had some knowledge of the language requested by the complainant were not regarded as substantial grounds
to change the language. Similarly, a limited number of available translators between the native lan-
guages of the parties have not been considered sufficient ground to change the language of proceeding to English in one instance.

**Relevant Decisions:**
- Vivartia-Industrial & Commercial company of food & catering services v. Anastasios Karzakis, CAC 26758, <vivartia.eu>, Rejection
- White & Case LLP v. Tomáš Nagy, CAC 16838, <whitecase.eu> inter alia, Rejection
- Protective Komfort Group International Pavigym International v. Team X, s.r.o, CAC 51008, <pavigym.eu>, Rejection
- Ville de Paris v. H. Klomp, CAC 55598, <paris.eu>, Rejection
- Logintrans spółka z ograniczoną odpowiadalnością v. Traffic Web Holding B.V., CAC 23698, <trans.eu>, Rejection

However, changes have been made in cases, in which the language desired by the complainant was the national language of the respondent, provided the respondent did not indicate that he had knowledge of the language of the registration agreement. Similar decisions were reached when it appeared to be the case that the respondent had knowledge of the requested language and had only chosen the language of the registration agreement in order to make proceedings more complex. The language of the website was also used as an indicator.

**Relevant Decisions:**
- NürnbergMesse GmbH v. Marnix Brands, CAC 43208, <nuernbergmesse.eu>, Accepted
- SANOFI-AVENTIS v. De Jong M., CAC 4132, <acompliaoriginal.eu> inter alia, Accepted
- Citizen Engineering Services Ltd (Philip Nuttal) v. AOL (UK) Limited, CAC 43008, <buddylist.eu>, Accepted
- OLYMPIAKOS SYNDESMOS FILATHLON PIRAIEUS P.A.E. v. Biuro Pomocy Adwokackiej i Patentowej, CAC 43758, <redstore.eu>, Accepted
- Hlavní město Praha v. Traffic Web Holding B.V., CAC 46818, <prague.eu>, Accepted

With the changes to the ADR Rules, the requirement of exceptional circumstances was dropped. Therefore, successful requests in language trial appear to be more likely from now on. However, a clear scheme has not yet developed. In the first case governed by the new rules, the panel held that it could change the language at its own discretion if it was practical and not disadvantageous to the respondent. In that particular case, the language was changed, because the respondent had not re-plied, the parties had communicated in the language requested and that language had been the commonly used in the branch of trade that both parties were engaged in.

**Relevant Decision:**
- Avast Software a.s. v. AVIRA GmbH, CAC 57398, <avast.eu>, Accepted

However, the mere use of the requested language in communications between the parties is not regarded to be sufficient when the respondent is a national of a different country and refuses the change of language for reasons of misunderstandings. Also, the fact that both parties are nationals of the same country is not sufficient when the respondent resides in a different country and has chosen
the language of that country in the registration agreement.

**Relevant Decisions:**
- ABB Asea Brown Boveri Ltd, ABB AG v. Luigi Silvestri, CAC 5831B, <abbgroup.eu>, Rejection

12. Can supplemental filings be accepted?

According to Paragraph B 8 of the ADR Rules, panels can admit supplemental filings at their own discretion. Panels have not yet agreed on the circumstances under which doing so is appropriate. However, from these decisions, it can be derived that additional statements will be accepted under specific circumstances.

**Consensus View:** Panels accept supplemental filings if they entail evidence that could not possibly have been presented earlier.

**Relevant Decisions:**
- Hotel.eu s.r.o v. Internetportal und Marketing GmbH, CAC 419, <hotel.eu>, Transfer
- Vattenfall Europe Netcom GmbH v. EURid, CAC 1299, <4ce.eu>, Rejection
- Axel Arnulf Pfennig v. Internetportal und Marketing GmbH, CAC 3717, <arzt.eu>, Annulled
- Digipolis v. EURid, CAC 2185, <antwerp.eu> inter alia, Annulled
- FINEMCCANICA S.P.A. v. EURid, CAC 2671, <selex.eu>, Rejection
- Rotary International v. EURid, CAC 3465, <rotary.eu>, Revocation
- Sepracor Inc. v. Adil Akkus, CAC 5176, <lunesta.eu>, Revocation

Accordingly, the Party needs to have a "good reason" or prove "exceptional circumstances" justifying the delay of the issue of a decision.

**Relevant Decision:**
- CodeProject Solutions Inc. v. Przemyslaw Malak, CAC 7258, <codeproject.eu>, Revocation

Moreover, panels are likely to accept additional submissions for reasons of fairness, if belated responses have also been accepted.

**Relevant Decisions:**
- ThinkTank EDV-Consulting GmbH v. EURid, CAC 1996, <thinktank.eu> inter alia, Rejection
- Bookings Europe B.V v. Stichting Miloma, CAC 4090, <bookings.eu>, Transfer
- Finduciaire Belval SARL, Mme fatma benhara v. Blondeau, CAC 6907, <finduviairebelval.eu>, Transfer

However, if this is not the case, it is helpful for the opposing party to protest the additional submission. Such a protest may be considered by the panel in its decision to allow or disallow the submission.
Relevant Decisions:
1&1 Internet AG v. Christian Dahmen, CAC 453, <web.eu>, Revocation
Kontakta spol. s r. o. v. EURid, CAC 3072, <kontakta.eu>, Denial

Minority View: Additional submissions may also be accepted in other than the described circumstances. Some panels admitted such submissions, stating that they might help determine the facts.

Relevant Decisions:
hotel.be v. Internetportal und Marketing GmbH, CAC 3387, <hotel.eu>, Transfer
Eco Economy Tours v. EURid, CAC 2448, <ecotours.eu> inter alia, Rejection
art-x Webagentur. v. PARA Verwaltung GmbH, CAC 3848, <packservice.eu>, Rejection

13. Can complaints be filed by co-complainants?
Consensus View: Complaints can successfully be filed by related co-complainants due to practical reasons.

Relevant Decisions:
Rieke Corporation and Rieke Packaging Systems Limited v World Online Endeavours, Ltd, CAC 4588, <rieke.eu>, Transfer
Aktiebolaget Sandvik Coromant v. Mikhail Pirhonen, CAC 4879, <sandvikcoromant.eu>, Transfer
zappmedia GmbH, zappmedia Holding GmbH v. Mandarin & Pacific Services Limited, CAC 5249, <zappmedia.eu>, Transfer
General Electric Company, GE Capital EMEA Services Limited v. GeCredit Group, CAC 5681, <gecredit.eu>, Transfer
Point of Sports GmbH v. Vinitsia, Ltd, CAC 4881, <jetpilot.eu>, Transfer
Cash Converters Pty Ltd; Cash Converters (UK) Limited v. Xedoc Holdings, SA, Admin Domain, CAC 6346, <cashconverters.eu>, Transfer

14. Can panels award costs?
Consensus View: It is undisputed that panels cannot award costs for the proceeding.

Relevant Decisions:
Raad voor Rechtsbijstandv. EURid, CAC 335, <mediation.eu>, Rejection
Depmarc v. EURid, CAC 1711, <airco.eu> inter alia, Rejection
Depmarcv. EURid, CAC 2084, <suzuki.eu> inter alia, Rejection
In Person Personeelsgroep B.V v. Frans Morsink, CAC 5688, <inperson.eu>, Transfer
Lee Baron Fashions Ltd., Peter Lee v. Lee Baron Denmark, Alex Rasmussen, CAC 7033, <leebaron.eu>, Revocation

15. Can panels conduct independent investigations?
Consensus View: Paragraph B 7 (a), of the ADR Rules expressly allows panels to do so at their own discretion and panels have frequently done so.

Relevant Decisions:
TSE Systems GmbHv. Fienna, Ltd., CAC 1328, <tse-systems.eu>, Transfer
Euro Suisse International Ltdv. Lehigh Basin Ltd, CAC 3239, <eurosuisse.eu>, Rejection
Banca Intesa S.p.A. v. Dave Davies, CAC 4089, <bancointesa.eu>, Transfer
The Panels have not yet discussed the appropriate extent of the independent investigation and therefore it varies a lot how deeply the Panels investigate for example how much they search for relevant rights of a Respondent who did not submit a Response.

16. Are panels bound by decisions of national trade mark registries concerning the existence or non-existence of trade/service marks?

Although there have been several decisions on the issue, a consensus view has not yet developed. However, the majority view appears to be that such decisions must be accepted by panels as given.

Relevant Decisions:
- Wellness-Hotels-Deutschland GmbH v. Internetportal und Marketing GmbH, CAC 0452, <wellness.eu>, Rejection
- AAA Auto a.s. v. EURid, CAC 1812, <aaaauto.eu>, Rejection
- 123.ie Internet Services Limited v. Minerva Consulting GmbH, CAC 3668, <123.eu>, Transfer
- MasterCard Europe SPRL v. Lea Suter, CAC 5543, <europay.eu>, Rejection

Nevertheless, a significant number of panels have refused this view and taken the stance that panels can reconsider decisions taken by trade mark registries.

Relevant Decisions:
- LTUR Tourismus AG v. Rücker, CAC 283, <lastminute.eu>, Rejection
- Kocian Solc Balastik, advokatni kancelar, Ladislav Smejkal v. Andreas Constantinou, CAC 1584, <ksb.eu>, Transfer
- DDR Museum Berlin GmbH v. Zheng Qingying, CAC 5094, <ddr-museum.eu>, Transfer

17. On which party rests the burden of proof regarding a lack of legitimate rights or interests and bad faith?

Majority View: Concerning the burden of proof regarding a lack of legitimate rights or interests, in contrast to the exact wording of Paragraph B 11 (d) (1) and in analogy to the rules developed by UDRP panels, the complainant only needs to establish a prima facie case. Then, the onus shifts to the respondent to rebut the assertion that the respondent lacks legitimate rights or interests.

Relevant Decisions:
- SoftAge Services GmbH v. Zheng Qingying, CAC 2929, <softage.eu>, Rejection
Concerning the burden of proving bad faith, the Complainant must prove and substantiate its allegations with evidence on the balance of probabilities that the Respondent has registered or used the domain in bad faith.

Relevant Decisions:
- SoftAge Services GmbH v. Zheng Qingying, CAC 2929, <softage.eu>, Rejection
- The Game Group Plc v. First Internet Technology Ltd, CAC 4014, <game.eu>, Transfer
- GBO Design - Engineering v. Guidance International AB, CAC 4950, <gbo.eu>, Transfer
- Yakult Europe B.V. v. Mark Weakley, CAC 5156, <yakult.eu>, Transfer
- People Per Hour Ltd, Mr Michael Luna v. Dreamscape Networks Limited, Web Master, CAC 7234, <peoplehour.eu>, Transfer
- LEGO Juris A/S, Ms. Helena Myrin v. Blacklemon S.r.l., Nicola Bellotti, CAC 6757, <legominifigures.eu>, Transfer
- Sberbank of Russia, Sberbank Europe AG v. Sylux Sylwester Domitrz, CAC 6457, <sberbank.eu>, Revocation
- Vinci, Thérèse GASPAR v. None, rony gh, CAC 6430, <vinci-france.eu>, Transfer
- Tiger Media, Inc. v. Jaromir Wippler, CAC 6387, <jucyads.eu>, Transfer

Concerning bad faith, the Complainant only has to establish prima facie evidence for the Respondent having registered or used the domain in bad faith. The Respondent then has to rebut.
Relevant Decisions:
CharterLine Fuhrpark-Service GmbH v. fienna.com, CAC 4949, <buchbinder.eu>, Transfer
PETROM SA v. Kurt Janusch, CAC 5087, <petrom.eu>, Transfer
Barclays Bank Plc v. Simon Also, CAC 6071, <barclaycorporatefunding.eu>, Transfer
ANTONIO LLUSAR Y CIA, S.L. v. Jesus Llusar, CAC 7303, <llusar.eu>, Transfer
JD Sports Fashion Plc, Gareth Price v. Erika Gabler, CAC 7224, <chausports.eu>, Transfer

Minority View: The onus always rests on the respondent.

Relevant Decisions:
SAZKA, a.s.v. Andreas Polanka, CAC 4139, <sazka.eu>, Transfer
NürnbergMesse GmbH v. Marnix Brands, CAC 4320, <nurnbergmesse.eu>, Transfer
Mäurer + Wirtz GmbH & Co. KG v. Fienna.com, CAC 4410, <4711.eu>, Transfer

18. What is the standard of proof?

Consensus View: The Panels almost unanimously require that the assertion be proved on the balance of probabilities. This means that the asserted facts must be more likely to be true than to be false. That standard, also referred to as the preponderance of evidence standard, is also required in civil cases on Common Law jurisdictions.

Relevant Decisions:
123.ie Internet Services Limited v. Minerva Consulting GmbH, CAC 3668, <123.eu>, Transfer
Alterian Technology Limited v. Paul MacGowan, CAC Case No. 4296, <alterian.eu>, Transfer
Monster Worldwide Ireland Limited v. Monster Finance Limited, CAC 5376, <monsterfinance.eu>, Transfer
Noonan Services Groupv. OEEO NETWORKS LIMITED, CAC 5376, <noonan.eu>, Transfer
OANDA Corporation v. Domain Directors Europe Ltd, CAC 5665, <oanda.eu>, Revocation
Jager & Polacek Gmbh. Redtube, CAC 5893, <redtube.eu>, Transfer
Robert Manuel v. Wolf Konrad, CAC 7139, <manuel.eu>, Denial
Schibsted ASA, My Goland v. 2 U Import AB, CAC 7249, <prisjakt.eu>, Denial
Peuterey Group S.p.A. v. Jimme Hoek, CAC 6884, <peutereyoutletshop.eu>, Transfer
Television Broadcasts Limited, Chinese Channel Limited v. Michael Sing, CAC 6820, <tvbdo.eu>, Transfer
Otokar Otomotiv ve Savunma Sanayi A.S. v. Gbenga Osoba, CAC 7202, <otokar.eu>, Transfer
DivX, LLC, San Diego Calif., US, Daniel Schatz and Boehmert & Boehmert Partnerschaftsgesellschaft mbh, Dr. Andreas Dustmann v. Jan Schwarz, CAC 6813, <divxstage.eu>, Transfer
Sberbank of Russia, Sberbank Europe AG v. Sylux Sylvester Domitrz, CAC 6457, <sberbank.eu>, Revocation
WARGAMING.NET LLP, Maître Pierre Miriel v. Irina Zapolsky, CAC 6252, <worldofwarplanes.eu>, Transfer

In an isolated decision, it was held that panellists must be rather convinced of the facts asserted. It is uncertain, however, whether the applied standard was in fact different from the standard applied by other panels.

Relevant Decision:
Ursula Hahn v. Zheng Qingying, CAC 3444, <ocunet.eu>, Transfer
19. Can documents submitted in language other than the language of proceedings be accepted?

According to Paragraph A 3 (c) of the ADR Rules, all submissions “shall be made in the language of the ADR Proceeding or in different requested language if the Complainant proves (...) that the Respondent has adequate knowledge of such different language.” However, panels are also allowed to request a translation of such submissions or disregard them without requiring a translation.

Relevant Decisions:
Mr Matthew Keith Witts v. Internetportal und Marketing GmbH, CAC 52, <yoga.eu>, Rejection
Richard Schlicht v. Internetportal und Marketing GmbH, CAC 910, <reifen.eu>, Transfer
Hotel.be v. Internetportal und Marketing GmbH, CAC 3387, <hotel.eu>, Transfer
Mr. Didier Mottev. Ovidio Limited, CAC 4526, <placement.eu> inter alia, Transfer
ELTRO Gesellschaft für Elektronik mbH v. Zheng Qingying, CAC 4620, <eltropuls.eu>, Transfer
UBA Oliffea, Giedre Dalidenaitė v. MendesSoft, Marcelo Q. Varela Barraza, CAC 7226, <telelototutikrinas.eu>, Denial
Nextbit, Federico Pagani v. M Jank, CAC 6800, <nextbit.eu>, Transfer

In the absence of a response, some panels declared it to be sufficient that the panellist understood the evidence.

Relevant Decisions:
Abat AG v. Georg Gottfried, CAC 3976, <abat.eu>, Transfer
SIMTEK Präzisionswerkzeuge GmbH v. Lexicon Media, Ltd., CAC 4373, <simtek.eu>, Transfer
Schiess Tech GmbH v. Metalkid 2008, Razvan Zofota, CAC 6929, <smtcl.eu>, Transfer

Nevertheless, there were notable decisions, in which panels declined to take documents submitted in foreign language into consideration. In some of these decisions, it appeared to be the case that the evidence was not accepted, because the respondent did not have sufficient knowledge of the language.

Relevant Decisions:
Hotel.eu s.r.o v. Internetportal und Marketing GmbH, CAC 419, <hotel.eu>, Transfer
Atlasprofilax, S.A. v. Alfredo Lerro, CAC 3971, <atlasprofilax.eu>, Revocation
Witzenmann GmbH v. Markus Jank, CAC 5388, <witzenmann.eu>, Transfer
Merck KGaA v. Ficsor Balazs, CAC 4345, <merckgroupe.eu>, Transfer
SANOFI, Carole TRICOIRE v. Poussieres d’Etoiles, poussieres d etoiles, CAC 6492, <oenobio.eu>, Transfer

In one case the Panel decided not to request a document to be translated, as the Panel understood the other language.

Relevant Decision:
Schiess Tech GmbH v. Metalkid 2008, Razvan Zofota, CAC 6929, <smtcl.eu>, Transfer
20. Can complaints be accepted based on the respondent’s failure to supply a response?

**Majority Approach:** Complaints are not granted based on respondents’ failure to supply a response.

According to Article 22 (10) of the PPR and Paragraph B 10 (a) of the ADR Rules, it is possible for panels to accept a complaint based on the respondent’s default. Panels have, however, rarely done so. Some required complainants to establish a prima facie case in order to succeed. Similarly, other panels have in the absence of a response accepted as established the facts asserted by the complainant and have drawn all reasonable inferences therefrom. This approach may be derived from Paragraph B 10 (b) of the ADR Rules.

**Relevant Decisions:**
- Energylinx Limited v. Gumshoe Research Limited, CAC 1129, <energylinx.eu>, Transfer
- Kemet International Limited v. Vintisia Ltd, CAC 1304, <kemet.eu>, Transfer
- Peter A. Rueckert v. Domain Handler, CAC 1387, <biomark.eu>, Rejection
- Pharma Medico UK Ltd. v. Vintisia Ltd, CAC 1412, <nourkrin.eu>, Transfer
- E.T Browne (UK) Limited. Fienna Limited, CAC 2235, <palmerscocoabutter.eu>, Transfer
- Studienkreis GmbH v. Cervos Enterprises Ltd, CAC 3202, <studienkreis.eu>, Transfer
- Hans Beckhoff v. OEEO NETWORKS LIMITED, CAC 3565, <ethercat.eu>, Transfer
- Zoologisk Have v. Name Battery, Ltd., CAC 3942, <copenhagenzoo.eu>, Transfer
- Abat AG v. Georg Gottfried, CAC 3976, <abat.eu>, Transfer
- Adina Europe Limited v. Fienna.com, CAC 4562, <adina.eu>, Transfer
- EUROPART Holding GmbH v. Zheng Qingying, CAC 4753, <europart.eu>, Transfer
- Sponda Oyj v. UK Domain Developers, Ltd, CAC 4497, <sponda.eu>, Transfer
- Mills Brothers B.V. v. OEEO NETWORKS LIMITED, CAC 4725, <testing.eu>, Transfer
- Tekom Gesellschaft für technische Kommunikation e.V. v. Kausani Enterprises Ltd, CAC 4735, <tekom.eu>, Transfer
- In Person Personeelsgroep B.V. v. Frans Morsink, CAC 5688, <inperson.eu>, Transfer
- Edscha AG v. Vintisia Ltd, CAC 3140, <edscha.eu>, Transfer
- BB C - SERVICES, s.r.o. v. Zheng Qingying, CAC 3368, <bbcentrum.eu>, Transfer
- Big Dutchman v. Zheng Qingying, CAC 3510, <bigdutchman.eu>, Transfer
- Fiere Internazionali di Bologna SPA v. Lexicon Media Ltd, CAC 4261, <motorshowbolognafiere.eu>, Rejection
- SALOMON S.A. v. Vintisia Ltd, CAC 4269, <salmonsports.eu>, Transfer
- Carl Kurth Walter GmbH v. Mandarin & Pacific Services Limited, CAC 4477, <walter-praezision.eu>, Transfer
- General Electric Company, GE Capital EMEA Services Limited v. GeCredit Group, CAC 5683, <gecredit.eu>, Transfer
- UBAVICIUS ANT. – FARAZOUMIS IOAN. O.E. (DNHOST), Mr. Antonie Francois Ubavicius v. Sakellarides Law Offices, Vali Sakellardides, CAC 6704, <dnhost.eu>, Transfer
- Peuterey Group S.p.A. v. Rivano Leenen, CAC 6886, <outlet-peuterey.eu>, Transfer
- People Per Hour Ltd, Mr Michael Luna v. Dreamscape Networks Limited, Web Master, CAC 7234, <peopleperhour.eu>, Transfer
- Swarovski Aktiengesellschaft, Mr Rudolf Haugg v. Marcel Hertz, CAC 6443, <swarovskischweizonslinershop.eu>, Transfer
- Vinci, Thérèse GASPAR v. None, rony gh, CAC 6430, <vinvi-france.eu>, Transfer
- SmithKline Beecham Limited and SmithKline Beecham Limited v. GSKline Limited, CAC 6341, <gskline.eu>, Transfer
- Yahoo! Inc., Yahoo! UK Limited v. Toma Cristian, CAC 6281, <yahooscan.eu>, Transfer
However, in one case, the Panel came to the conclusion that even when there is a lack of a response, the assertion that the respondent did not have legitimate rights or interests was not enough.

**Relevant Decision:**
Manako Ltd & Co KG v. Zheng Qingying, CAC 5903, <manako.eu>, Transfer

**Minority Approach:** Complaints are accepted based on the respondent’s default.

**Recent Decisions:**
- Peuterey Group S.p.A. v. Rivano Leenen, CAC 6896, <outlet-peuterey.eu>, Transfer
- Mr. Leonid Bouryi v. Taisia Tomah, CAC 6795, <marathonbet.eu>, Revocation
- Ms heidi tandy, Esq. v. smartling, Remigiusz Kokot, CAC 7209, <smartling.eu>, Revocation
- CONFÉDÉRATION NATIONALE DU CRÉDIT MUTUEL, Benoît WIESEL v. Isabelle SCHMITT, CAC 7211, <lecreditmutuel.eu>, Transfer
- Bank of America Corporation; Merrill Lynch International v. Oksana Lonu, CAC 6623, <bankofAmericacorp.eu>, Transfer
- GRINDEKS, akciju sabiedrība v. Dzintars Leja, CAC 6595, <grindeks.eu>, Transfer
- Retail Royalty Company, American Eagle NL Hold Co B.V. v. SUN KING, CAC 6303, <americanegleoutfitters.eu>, Revocation
- Benefit Cosmetics LLC, Christophe LeBoterff v. Domain Master, CAC 6295, <benefitcosmetics.eu>, Transfer
- Yahoo! Inc., Yahoo! UK Limited v. Toma Cristian, CAC 6281, <yahooscan.eu>, Transfer
- ECCO Sko A/S, Julie Marie Niebuhr Aagaard v. qingniang zhuang, CAC 6247, <eccosko.eu>, Transfer
- Amazon Europe Holding Technologies SCS v. Solomon Jack, CAC 6643, <amazon-it.eu>, Transfer
- Otokar Otomotif ve Savunma Sanayi A.S. v. Gbenga Osoba, CAC 7202, <otokar.eu>, Transfer

**21. Can the Respondents failure to supply a respond be regarded as a suggestion, that he or she has no rigs or legitimate interests in the domain?**

It is the common understanding of the Panels that a Respondent would have submitted a respond stating his or her legitimate rights or interests if the Respondent had any. In some instances the Panel conducts an independent investigation.

**Recent Decisions:**
- Peuterey Group S.p.A. v. Rivano Leenen, CAC 6896, <outlet-peuterey.eu>, Transfer
- Mr. Leonid Bouryi v. Taisia Tomah, CAC 6795, <marathonbet.eu>, Revocation
- Ms heidi tandy, Esq. v. smartling, Remigiusz Kokot, CAC 7209, <smartling.eu>, Revocation
- CONFÉDÉRATION NATIONALE DU CRÉDIT MUTUEL, Benoît WIESEL v. Isabelle SCHMITT, CAC 7211, <lecreditmutuel.eu>, Transfer
- Bank of America Corporation; Merrill Lynch International v. Oksana Lonu, CAC 6623, <bankofAmericacorp.eu>, Transfer
- GRINDEKS, akciju sabiedrība v. Dzintars Leja, CAC 6595, <grindeks.eu>, Transfer
- Retail Royalty Company, American Eagle NL Hold Co B.V. v. SUN KING, CAC 6303, <americanegleoutfitters.eu>, Revocation
- Benefit Cosmetics LLC, Christophe LeBoterff v. Domain Master, CAC 6295, <benefitcosmetics.eu>, Transfer
- Yahoo! Inc., Yahoo! UK Limited v. Toma Cristian, CAC 6281, <yahooscan.eu>, Transfer
- ECCO Sko A/S, Julie Marie Niebuhr Aagaard v. qingniang zhuang, CAC 6247, <eccosko.eu>, Transfer
- Amazon Europe Holding Technologies SCS v. Solomon Jack, CAC 6643, <amazon-it.eu>, Transfer
- Otokar Otomotif ve Savunma Sanayi A.S. v. Gbenga Osoba, CAC 7202, <otokar.eu>, Transfer

**22. Can panels accept belated responses?**

Yes, panels can accept late responses at their own discretion. In proceedings against the registry, late responses were likely ignored, unless the opposing party was also allowed to submit additional evi-
The question has been decided much less in proceedings against registrants under Art 22 (1) a) of the PPR. Generally, panels can decide on the admissibility of evidence at their own discretion according to Paragraph B 7 (b) of the ADR Rules.

**Majority View:** Late responses are accepted if the complainant is also allowed to submit an additional filing or if there are sufficient reasons for a late filing. It may also matter by how long the deadline is missed. Moreover, it appears to be less likely that a late response will be accepted if the other party protests as soon as the response is received.

**Relevant Decisions:**
- IAC Search and Media Europe Ltd v. First Internet Technology Limited, CAC 2438, <ask.eu>, Transfer
- Esprit Retail Wholesale GmbH v. Max Kudrenko, CAC 3926, <esprit.eu>, Transfer
- Bookings Europe B.V v. Stichting Miloma, CAC 4090, <bookings.eu>, Transfer
- RS FRanchise v. MUSTPAHA MESSAOURI, CAC 7297, <reparstores.eu>, Transfer

**Minority View:** Belated responses are inadmissible, because the ADR .eu proceeding is supposed to be a speedy procedure and late responses would, were they admitted, hinder timely decisions. However, this was only stated in an obiter dictum. Nevertheless, it is of great significance, as this stance was the majority view in decisions involving the registry.

**Relevant Decisions:**
- SHB Innovative Fondskonzepte AG v. Markus Jank, CAC 4700, <shb.eu>, Transfer
- Mitsubishi Motors Europe B.V v. EURid, CAC 294, <colt.eu>, Rejection
- Eye-2 B.V v. EURid, CAC 1228, <mylens.eu> inter alia, Rejection
- Nordea Bank Finland Abp v. EURid, CAC 1537, <solo.eu>, Rejection

**Minority View:** The response can only be used for informational purposes.

**Relevant Decisions:**
- Dansk Internet Forum v. Zhonglan, CAC 1644, <dk-hostmaster.eu>, Transfer
- Richard Canten v. EURid, CAC 1627, <planetinternet.eu>, Rejection
- European Social Projects Office v. EURid, CAC 1525, <espo.eu>, Annulled

**23. Do non-EU-entities have standing in ADR .eu proceedings?**

**Consensus View:** According to Art 22 (1) PPR and Paragraph B 1 (a) of the ADR Rules, any person or entity can start an ADR proceeding. Therefore, non-EU-entities have standing in ADR .eu proceedings. However, those entities cannot request a transfer of the domain name.

**Relevant Decisions:**
- SEVEN FOR ALL MANKIND LLC v. Riazul Quadir, CAC 2300, <7forallmankind.eu>, Revocation
- WESTAT, Inc v. My Internet Media Ltd, CAC 5325, <westat.eu>, Revocation
- Lernco, Inc. v. Andy Ltd., CAC 5332, <lernercatalog.eu>, Revocation
The panels have usually accepted joint complaints filed by non-EU right holders and their EU subsidiaries or other related entities. If the transfer was requested to the EU entity it is usually granted. The rights of the Co-Complainant have to be proved in order for the Panel to be entitled to transfer the Domain Name.

Relevant Decisions:
Rieke Corporation, Rieke Packaging Systems Limited v. World Online Endeavours, Ltd, CAC 4588, <rieke.eu>, Transfer
Colliers International Property Consultants Inc, Colliers CRE Plc v. Zheng Qingying, CAC 4955, <collierscre.eu>, Transfer
Electric Sheep Fencing LLC and Rubicon Communications LLC v. Halma Automatisering, CAC 7162, <pfsense.eu>, Transfer
VS Media, Inc. and Flirt4Free EU Limited v. W.A. Vyet, CAC 6950, <flirt4free.eu>, Transfer
Swarowski Aktiengesellschaft and D. Swarowski Kommanditgesellschaft v. Osama Abusultan, CAC 6787, <swarovskicrystalsale.eu>, Transfer
DiXt, LLC, San Diego Calif., US, Daniel Schatz and Boehmert & Boehmert Partnerschaftsgesellschaft mbH, Dr. Andreas Dustmann v. Jan Schwarz, CAC 6813, <divxstage.eu>, Transfer
Sberbank of Russia, Sberbank Europe AG v. Sylux Sylvester Domitz, CAC 6457, <sberbank.eu>, Revocation
Benefit Cosmetics LLC, Christophe LeBoterff v. Domain Master, CAC 6295, <benefitcosmetics.eu>, Transfer

24. What criteria do the Complainant have to meet to be eligible for the transfer of the disputed Domain Name?

The Complainant is eligible for the transfer of domain names, as far as they are EU-entities. Only a minority of the Panels touch upon this topic if the Complainant is an EU-entity and therefor eligible.

Relevant Decisions:
People Per Hour Ltd, Mr Michael Luna v. Dreamscape Networks Limited, Web Master, CAC 7234, <peopleperhour.eu>, Transfer
CONFÉDÉRATION NATIONALE DU CRÉDIT MUTUEL, Benoît WIESEL v. adam co., adam sandling, CAC 7280, <credit-mutuels.eu, creditmutuel-verification.eu, creditmutuels.eu>, Transfer

Under the Regulations in the Agreement on the European Economic Area Complainants with registered offices, central administration or principal place of business in Iceland, Norway and Lichtenstein, organisations established in Iceland, Norway or Lichtenstein and residents in these countries are allowed to register their names under the .eu TLD.

Meeting these criteria, the Parties can also be eligible to claim transfer of the disputed domain name.

Relevant Decisions:
Electric Sheep Fencing LLC and Rubicon Communications LLC v. Halma Automatisering, CAC 7162, <pfsense.eu>, Transfer
UBAVICIUS ANT. – FARAZOUMIS IOAN. O.E. (DNHOST), Mr. Antonie Francois Ubavicius v. Sakellarides Law Offices, Vali Sakellardrides, CAC 6704, <dnhost.eu>, Transfer
25. What are the consequences if the Complainant is not eligible for transfer of the disputed domain name?

If the Complainant is not eligible the disputed Domain Name cannot be transferred to the Complainant. The Panel can instead revoke the disputed Domain Name, disregarding if the Complainant did actually only claim transfer.

Relevant Decisions:
- CodeProject Solutions Inc. v. Przemyslaw Malak, CAC 7258, <codeproject.eu>, Revocation
- Tinder, Incorporated v. Margret Eagle, CAC 7240, <gotinder.eu>, Revocation
- Enterprise Holdings, Inc. v. Domains Master, CAC 6542, <enterprize.eu>, Revocation
- Sberbank of Russia, Sberbank Europe AG v. Sylux Sylwester Domińczuk, CAC 6457, <sberbank.eu>, Revocation
- Retail Royalty Company, American Eagle NL Hold Co B.V. v. SUN KING, CAC 6303, <americaneagleoutfitters.eu>, Revocation

26. Are Complainants required to have rights in the domain name in order to launch ADR.eu proceedings?

Regarding this issue, a consensus view has not yet developed. The regulations cited above state that “any party” can launch proceedings.

Majority View: It is a basic principle of law that a complaint can only succeed if the complainant has rights itself. In other words: The complainant must be a party in interest. However, in some cases, this was not stated expressly, but only implicitly.

Relevant Decisions:
- Rabbi Guy David Hall v. UK Domain Developers, Ltd., CAC 1375, <rabbin.eu>, Rejection
- Axel Arnulf Pfennig v. Dom.info e.K., CAC 1559, <book.eu> inter alia, Rejection
- Axel Arnulf Pfennig v. Online Shopping Limited, CAC 1652, <shopping.eu>, Rejection
- E.T Browne (UK) Limited v. Fienna Limited, CAC 2235, <palmerscocoabutter.eu>, Transfer
- Dr Massimo Introvigne v. Maurizio Lussetti, CAC 2928, <prada.eu>, Rejection
- Contrinex GmbH v. Martin Writh, CAC 3044, <contrinex.eu>, Rejection
- Enterprise Rent-a-Car UK Limited v. Domain Active Europe Ltd, CAC 4213, <enterpriserentals.eu>, Transfer
- Labrada Bodybuilding Nutrition, Inc. v. Timo Kermerink, CAC 4396, <labrada.eu>, Rejection
- Oy Hullut Päivät - Galna Dagar Ab v. Applebeach Ltd, CAC 4458, <hullutpaivat.eu> inter alia, Transfer
Minority View: Contrary to this approach, other panels have stuck to the exact wording of the regulations and have stated that any party could launch proceedings under the ADR.eu regime.

Relevant Decisions:
- Nicolas De Borrekens v. Van der Velden beheer BV, CAC 597, <restaurant.eu> inter alia, Transfer
- Axel Arnulf Pfennig v. Internetportal und Marketing GmbH, CAC 1717, <arzt.eu> inter alia, Annulled
- Haji GmbH v. Ovidio Limited, CAC 2381, <haji.eu>, Transfer
- Ursula Hahn v. Zheng Qingying, CAC 3444, <ocunet.eu>, Transfer
- PICMG Europe v. Barbara Baldwin, CAC 4478, <picmg.eu>, Rejection

27. Under which circumstances do complaints constitute an abuse of ADR proceeding?
Paragraph B 12 (h) allows the panel to hold that a complaint constitutes an abuse of ADR proceeding, if it finds that the complaint was initiated in bad faith. So far, only one panel has found that a proceeding was abusive. This was declared when a complainant who had registered a trade mark in bad faith launched proceedings against the respondent who had been engaged in cybersquatting.

Relevant Decision:
- Cervos Enterprises Ltd. v. Internetportal und Marketing GmbH, CAC 3938, <arzt.eu> inter alia, Rejection

28. Does a duty to inform respondents prior to launching proceedings exist?
There exists neither in the PPR nor in the ADR Rules a provision establishing such a duty.

Relevant Decision:
- Basler Haar-Kosmetik GmbH & CO. KG. v. Iwebment Media Limited, CAC 3125, <baslerhaarkosmetik.eu> inter alia, Transfer

29. Do panels have authority to transfer domain names to third parties?
Majority View: Article 22 (11) PPR and Paragraph B 11 (b) of the ADR Rules state that if the complainant satisfies the general eligibility criteria (Article 4 (2) (b) of the Regulation (EC) No 733/2002), the domain name may be transferred to the complainant. Therefore, most panels have declined to order a transfer to a third party.

Relevant Decisions:
- DBC, LLC v. Angelos Mpethavas, CAC 3924, <xango.eu>, Revocation
- Atlasprofilax, S.A. v. Alfredo Lerro, CAC 3971, <atlasprofilax.eu>, Revocation
- F. Hoffmann-La Roche AG v. Anastasios Karkazis, CAC 4733, <tamiflu.eu>, Revocation
- Sepracor Inc. v. Adil Akkus, CAC 5174, <lunesta.eu>, Revocation
- OANDA Corporation v. Domain Directors Europe Ltd, CAC 5665, <oanda.eu>, Revocation
Branches of non-European Complainants that lie within the European Union are considered as the Complainant itself and are therefore eligible transferees of the concerned domain.

**Relevant Decisions:**
Turkcell Iletisim Hizmetleri A.S v. dilek TANIK, CAC 5837, <turkcell.eu>, Transfer
AKBANK TURK A.S. v. Gizem Yapakci, CAC 5117, <akbank.eu>, Transfer

30. Does the Complainant’s passiveness in regards to other possible confusingly similar or identical Domain Names have any influence on the proceedings or the decision of the Panel?

The Complainant’s passiveness in regards to other domain names is not relevant to the proceedings or the decision of the Panel, since there could be various reasons as to why the Complainant chose not to launch proceedings in those other instances.

**Relevant Decisions:**
The University of Durham, Ms. Paulina Lubacz v. C.I.T., Amit Matalia, CAC 6710, <cem11plus.eu>, Transfer

31. What information must the Complainant deliver regarding the identity of the Respondent?

The Complainant must provide the name and contact information of the Respondent or any of the Respondents’ representatives known to the Complainant, stemming from the requirements of the ADR Rules Art. B 1(b)(5). Not many Panels have discussed this point yet, but in one case the Panel accepted for the Complainant to rely on the information in the WHOIS database.

**Relevant Decisions:**
UBAVICIUS ANT. – FARAZOUMIS IOAN. O.E. (DNHOST), Mr. Antonie Francois Ubavicius v. Sakellarides Law Offices, Vali Sakellarides, CAC 6704, <dnhost.eu>, Transfer

**II. Relevant rights of the complainant**

The complainant in an ADR procedure needs to describe the grounds on which the complaint is made and therefore has to (inter alia) show that he has rights that are recognized or established by national and/or community law in a name that the domain in question is identical or confusingly similar to.

Those relevant rights can be rights such as registered national and community trademarks, geographical indications or designations of origin, and unregistered trademarks, trade names, business identifiers, company names, family names and distinctive titles of protected literacy and artistic works as far as they are protected under national law in the respective Member State. This list raises some questions on what exactly is or is not a relevant right in reference to the ADR procedure.
1. Can a complainant have a relevant right from a registered trademark?

Any registered trademark that is recognized and/or established by either community law or national law in a Member State is sufficient to initiate an ADR procedure. The requirements of a registered trademark therefore differ depending on the national law of the country where it is registered.

**Relevant Decisions:**

Trentingrana Conscart Sca Consorzio dei Caseifici Sociali e dei Produttori Latte v. Zheng Qingying, CAC 5491, <trentingrana.eu>, Transfer
Zheng Qingying v. FGSPORT S.r.l., Gianluca Pastori, CAC 3885, <worldsbk.eu>, Transfer
David Fishman v. NGM ITALIA srl, Stefano Nesi, CAC 5969, <ngm.eu>, Transfer
UBAVICIUS ANT. – FARAZOMIS IOAN. O.E. (DNHOST), Mr. Antonie Francois Ubavicius v. Sakellarides Law Offices, Vali Sakelladrides, CAC 6704, <dnhost.eu>, Transfer
Swarowski Aktiengesellschaft and D. Swarowski Kommanditgesellschaft v. Osama Abusultan, CAC 6787, <swarovskicrystalsale.eu>, Transfer
Peuterey Group S.p.A. v. Jimme Hoek, CAC 6884, <peutereyoutletshop.eu>, Transfer
MAPFRE FAMILIAR, COMPANIA DE SEGUROS Y RASEGUROS, S.A. v. L. Garcia LLC, Luis Garcia, CAC 06856, <mapfre-es.eu>, Transfer
Television Broadcasts Limited, Chinese Channel Limited v. Michael Sing, CAC 6820, <tvbdo.eu>, Transfer
FC Bayern München AG, Dr. Michael Gerlinger v. Duncan Asset Management, Christopher Duncan, CAC 6901, <fc-bayern-munchen.eu>, Transfer
Symbios Solutions Ltd v. Eurekahosts, Patrick Philip, CAC 6834, <swingireland.eu>, Transfer
Amazon Europe Holding Technologies SCS v. Solomon Jack, CAC 6634, <amazon-it.eu>, Transfer
The University of Durham, Ms. Paulina Lubacz v. C.I.T., Amit Matalia, CAC 6710, <cem11plus.eu>, Transfer
Liu Jio S.p.A., Ms. Serena Iori v. Studio Legale SIB, Mr. Carloalberto Goivannetti, CAC 6590, <liujooutlet.eu>, Transfer
Peuterey Group S.p.A. v. Rivano Leenen, CAC 6886, <outlet-peuterey.eu>, Transfer
Mr. Leonid Bouryi v. Taisia Tomah, CAC 6795, <marathonbet.eu>, Revocation
VKR Holding A/S, Lisbeth Ferdinand-Petersen v. Andrew Hooper, CAC 7278, <veluxglazing.eu>, Transfer
NEW SPEECH Dawid Tomaszewski v. Porodnia logopedyczna Nowa Mowa s.c. M.Kapuscinska, K.Wanke, CAC 7186, <nowamowa.eu>, Transfer
NRG Manufacturing Limited v. Peter Newton, CAC 6870, <gestetner.eu>, Transfer
National Westminster Bank Plc., Ms. Suzanne Wright v. Andrew Cullow, CAC 6629, <natwestplc.eu>, Transfer
Bank of America Corporation; Merrill Lynch International v. Oksana Lonu, CAC 5623, <bankofamericacorp.eu>, Transfer
GRINDEKS, akciju sabiedrība v. Dzintars Leja, CAC 6595, <grindeks.eu>, Transfer
Mötesplatsen i Norden AB v. UAB Novavrand, Oksana Dasevskaja, CAC 6526, <motesplatsen.eu>, Transfer
Smart Voucher Ltd t/a Ekash, Mr. Jamie King v. eKash International, Wendy Kessie, CAC 6458, <ekash.eu>, Transfer
Sberbank of Russia, Sberbank Europe AG v. Sylux Sylwester Domitrycz, CAC 6457, <sberbank.eu>, Revocation
Deutsche Lufthansa AG v. Ronald Peeters, CAC 6425, <lufthansa.eu>, Transfer
GetData Pty Ltd, Graham Henley v. Recover My Files Co., Ltd., Matthew Settles, CAC 6343, <recovermyfiles.eu>, Denial
Joachim Oldendörp v. Miguel Rebelo Silva, CAC 6328, <eyedoc.eu>, Denial
2. Can a complainant have a relevant right from a pending trademark application?

The **consensus view** of .eu ADR panels is that a pending trademark application alone is not a relevant right of the complainant. For community trademarks it is explicitly stated in the council Regulation on Community Trademarks Art. 6 that these trademarks are in effect from the date of publication of the registration of the trademark. All of this is in agreement with UDRP judicature where mere applications are also not accepted as sufficient rights to a name.

**Relevant Decisions:**

Peter A. Rueckert v. Domain Handler, CAC 1387, <biomark.eu>, Denial


However, it should be noted that the panels decided in a different way if the application was pending at the time of the registration of the domain name while the complaint is filed after the registration has been granted.

**Relevant Decisions:**

Zheng Qingying v. FGSPORT S.r.l., Gianluca Pastori, CAC 3885, <worldsbk.eu>, Transfer

ANASTASIOS KARKAZIS v. VIVARTIA_INDUSTRIAL, CAC 4099, <vivarita.eu>, Transfer

3. Can a complainant have a relevant right from an expired trademark/service mark?

It is the **consensus view** of several panels that an expired trademark or service mark is not a relevant right.

**Relevant Decisions:**

Institut Franco-Allemand de Recherches de Saint-Louis v. EURid, CAC 2119, <isl.eu>, Denial

B. Metzler seel. Sohn & Co. KGaA v. EURid, CAC 1943, <metzler.eu>, Denial

EURO-INFORMATION SA v. EURid, CAC 2780, <cybermut.eu>, Denial

4. Can a complainant have a relevant right from a figurative trademark/service mark?

Several panels have ruled that a figurative trademark/service mark can be a relevant right, if a word can be clearly separated and distinguished from the other elements. If a figurative mark holds rele-
vant rights to a specific domain name has to be determined in the decision on “Identity or confusing similarity”.

Relevant Decisions:
Distillerie Bonollo S.p.A. v. EURid, CAC 1427, <bonollo.eu>, Denial
Siebert Industrieelektronik GmbH v. EURid, CAC 2680, <siebert.eu>, Denial
IAC Search & Media Europe Ltd v. First Internet Technology Limited, CAC 2438, <ask.eu>, Transfer
Wellness-Hotels-Deutschland GmbH v. Internetportal und Marketing GmbH, CAC 452, <wellness.eu>, Denial
Goebel & Voigt v. EURid, CAC 3492, <mapco.eu>, Denial
HAUG GmbH & Co. KG v. Winfried Haug, CAC 5308, <haug.eu>, Transfer
FC Bayern München AG, Dr. Michael Gerlinger v. Duncan Asset Management, Christopher Duncan, CAC 6901, <fc-bayern-munchen.eu>, Transfer

5. Can a complainant have a relevant right from a trademark or service mark if it is registered only after the domain registration?

So far in .eu ADR procedures there were two different opinions concerning the question if a trademark or service mark can be a relevant right if it is registered (and applied for) only after the domain registration. In one decision, it was said that a relevant right as mentioned in Article 21 (1) of the PPR has to be “prior” according to Article 10 (1) of the PPR and therefore must be registered before the domain registration.

Relevant Decision:
Axel Arnulf Pfennig v. Online Shopping Limited, CAC 3257, <shopping.eu>, Denial

In more recent decisions, the panels held that, as there is no specific reference to the date on which the complainant must have acquired the rights, it is not required that the trademark/service mark was registered before the domain registration but it is sufficient that the mark is in full effect at the time of the complaint. The second opinion corresponds to the wording of the regulation and is also in agreement with the predominant view in UDRP procedures.

Relevant Decisions:
Nordic Naturals v. UK DOMAIN DEVELOPERS LTD, CAC 5379, <nordicnaturals.eu>, Revocation
David Fishman v. NGM ITALIA srl, Stefano Nesi, CAC 5969, <ngm.eu>, Transfer
Piotr Warmowski v. Arcabit Sp. z o.o., Arcabit Sp. z o.o., CAC 5996, <arcabit.eu>, Transfer
Topreality.sk s.r.o. v. Pavel Šimon, CAC 6049, <topreality.eu>, Transfer
Electric Sheep Fencing LLC and Rubicon Communications LLC v. Halma Automatisering, CAC 7162, <pfsense.eu>, Transfer
CodeProject Solutions Inc. v. Przemyslaw Malak, CAC 7258, <codeproject.eu>, Revocation

6. Can a complainant have a relevant right from an unregistered trademark?

Unregistered trademarks are “prior rights“ and therefore relevant rights, in as far as they are protected under national law in the Member State where they are held. So far panels have inter alia
accepted “goodwill and reputation under the law of passing off” in the UK (common law trademark),
the use of a company logo in Denmark and another Danish trademark by use to be relevant rights.
Requirements for unregistered trademarks are therefore varying depending on national law of the
respective Member State.

**Relevant Decisions:**
- E.T Browne (UK) Limited v. Fienna Limited, CAC 2735, <palmerscocoabutter.eu>, Transfer
- IAC Search & Media Europe Ltd v. First Internet Technology Limited, CAC 2438, <ask.eu>, Transfer
- HS Automatic v. Zenghui Fuhechan & Zheng Qingying, CAC 5301, <hsajet.eu>, Transfer
- Zoologisk Have v. Name Battery Limited, CAC 3942, <copenhagenzoo.eu>, Transfer
- Symbios Solutions Ltd v. Eurekahosts, Patrick Philip, CAC 6734, <swing4ireland.eu>, Transfer
- Tinder, Incorporated v. Margret Eagle, CAC 7240, <gotinder.eu>, Revocation
- People Per Hour Ltd, Mr Michael Luna v. Dreamscape Networks Limited, Web Master, CAC 7234, <peopleperhour.eu>, Transfer
- NEW SPEECH Dawid Tomaszewski v. Porodnia logopedyczna Nowa Mowa s.c. M.Kapucinska, K.Wanke, CAC 7186, <nowamowa.eu>, Transfer
- Nextbit, Federico Pagani v. M Jank, CAC 6800, <nextbit.eu>, Transfer
- Benefit Cosmetics LLC, Christophe LeBoterff v. Domain Master, CAC 6295, <benefitscosmetics.eu>, Transfer

7. What are the criteria for calling upon an unregistered trademark as prior rights?
To be able to call upon unregistered trademarks as prior rights, the Complainant must provide rele-
vant and adequate evidence thereof.

**Relevant Decisions**
- The University of Durham, Ms. Paulina Lubacz v. C.I.T., Amit Matalia, CAC 6710, <cem11plus.eu>, Transfer

One Panel stated that unregistered trademarks are secondary to registered trademarks, and there-
fore assumes that an unregistered trademark will not be examined further if there are registered
trademarks. This is substantiated by the fact that the Panelists do not often consider the unregis-
tered trademarks, as far as they also have registered trademarks or other rights recognized.

**Relevant Decision:**
- FANUC Corporation, Japan and FANU UK Limited, Tom Buchier v. Web Editor, CAC 6920, <fanuc-cnc.eu>, Transfer

7. Can a complainant have a relevant right from ownership of other domains?
So far some panels strictly refused to accept the ownership of another domain as a relevant right.
Other panels listed the ownership of other domains along a trademark and/or a company name to
accept a relevant right.

**Relevant Decisions:**
- UBAVICIUS ANTONIUS – FARAZOUMIS IOANIS O.E. (DNHOST), Mr. Antonie Francois Ubavicius v. Sakellarides Law Offices, Vali Sakella-
drides, CAC 6704, <dnhost.eu>, Transfer
Overall it seems almost certain that panels will not accept the ownership of another domain as a relevant right if there are no other relevant prior rights.

8. Can a complainant have a relevant right from a company name?

Company names are formally listed as relevant rights. Panels have therefore accepted company names as relevant rights in ADR procedures. One Panel has also accepted a part of a company name as a relevant right, as long as it was protected by national law. Another panel has accepted an abbreviation of a company name as a relevant right because of the wide understanding of the term trade name in many European countries.
9. Can a complainant have a relevant right from a family name?

Family names are formally listed as relevant rights. Panels saw a personal ID as sufficient proof for a relevant right in a domain name. A right in a domain name, that was an abbreviation which included a family name, was refused.

Relevant Decisions:
Helmut Eichhorn v. EURid, CAC 2796, <eichhorn.eu>, Anulled
HAUG GmbH & Co. KG v. Winfried Haug, CAC 5208, <haug.eu>, Transfer
Propaganda Beheer B.V. v. C&F Media BV, CAC 2596, <dwbh.eu>, Transfer
ANTONIA LLUSAR Y CIA, S.L. v. Jesus Llusar, CAC 7303, <llusar.eu>, Transfer
Heinrich Leifeld GmbH, Herr Heinrich Werner Leifeld v. Yellow Network Limited, IT Admin, CAC 6701, <leifeld.eu>, Transfer
Swarovski Aktiengesellschaft, Mr Rudolf Haugg v. Marcel Hertz, CAC 6442, <swarowskischweizonlineshop.eu>, Transfer

The fact that a family name coincides with a generic word descriptive of a trade or occupation does not detract from any right that person has in their family name.

Relevant Decision:
Friedrich Miller v. Frank Heilmann, CAC 6858, <miller.eu>, Transfer

One Panel noted that the use of the family name of an employee of the Complainant (manager and designer) was not to be considered as the same as the Complainant and therefor not relevant to the establishment of the Complainants prior rights. The name was relevant in regards to assessing bad faith of the Respondent.

Relevant Decision:
IM PRODUCTION, Sophie JACQUELINE v. HEINRICH GROOTHUIZEN, CAC 6877, <isabelmarant-outlet.eu>, Transfer

10. Can a complainant have relevant rights in a name of a public body?

Public bodies had the opportunity to register domain names consisting of the complete name of the public body or the acronyms which are generally used during the Sunrise period, Art. 10 (3) of the PPR.

Consensus View: To show rights in the name of a public body after the Sunrise period the complainant has to show that the name is protected by national and/or Community law, Art. 21 (1) of the PPR.
11. Can a complainant have relevant rights in a geographical term?

Public bodies had the opportunity to register the complete name of the territory for which they were responsible during the Sunrise period, Art. 10 (3) of the PPR.

**Consensus View:** If the public body did not apply for the domain name regarding the name of the territory for which it was responsible during the Sunrise period, it could no longer rely on the benefits of Art. 10 (3) of the PPR and had to prove the name being protected by national and/or Community law.

**Relevant Decisions:**
- Stadt Koeln v. Tempus Enterprises Ltd., CAC 2781, <koeln2010.eu>, Transfer
- Stockholms Stad v. Traffic Web Holding BV, CAC 386, <stockholm.eu>, Denial
- Helsingin Kaupunki v. Traffic Web Holding BV, CAC 473, <helsinki.eu>, Transfer

12. Can a trademark licensee have rights in a trademark for the purpose of filing a complaint?

**Consensus View:** An exclusive licence represents a right referred to in Art. 21 (1) of the PPR.

**Relevant Decisions:**
- IAC Search & Media Europe Ltd v. First Internet Technology Limited, CAC 2438, <ask.eu>, Transfer
- Cyworld Europe GmbH v. Kausani Enterprises Ltd, CAC 4759, <cyworld.eu>, Transfer
- Discover Financial Services (UK) Limited v. STC Schmeiman, CAC 5645, <dinerclub.eu>, Transfer
- Microsoft B.V. v. Peter Schmid, CAC 6220, <microsoftzune.eu>, Transfer
- Electric Sheep Fencing LLC and Rubicon Communications LLC v. Halma Automatisering, CAC 7162, <pfsense.eu>, Transfer
- TiMOTION EUROPE SARL v. A&E Trading BV, CAC 7246, <timotion.eu>, Transfer
- Cash Converters Pty Ltd; Cash Converters (UK) Limited v. Xedoc Holdings, SA, Admin Domain, CAC 6346, <cashconverters.eu>, Transfer
- Yahoo! Inc., Yahoo! UK Limited v. Toma Cristian, CAC 6281, <yahooscan.eu>, Transfer

Schiess Tech GmbH v. Metalkid 2008, Razvan Zofota, CAC 6929, <smtcl.eu>, Transfer

There is no consensus on how to proceed if a licence invoked is not exclusive, some Panels consider the license, some do not

**Majority view:** The licence is considered as a recognized right within the meaning of Art. 21 (1) PPR.
Relevant Decisions:

Memorex Products Europe Limited v. Goalover Limited, CAC 1196, <memorex.eu>, Transfer
Young Life v. Hanoki, Ltd., CAC 4108, <younglife.eu>, Transfer
Nexcom UK Ltd v. Lehigh Basin Ltd, CAC 4668, <nexcom.eu>, Transfer
New York University in France v. Vinitsia, Ltd, CAC 4925, <nyu.eu>, Transfer
Crocs Europe B.V. v. Jibbitz France, CAC 5039, <jibbitz.eu>, Transfer
Dayco Europe S.r.L. v. Titan MPA Ltd, CAC 5648, <dayco.eu>, Transfer
Beachcomber Hot Tubs Europe B.V. v. Aquaworld B.V. Hartman, CAC 5811, <beachcomberhottubs.eu>, Transfer
Hellas Sat S.A. v. Konstantinos Marketos, CAC 6038, <hellas-sat.eu>, Transfer

Minority View: If the licence is neither exclusive, nor provides for a right of the licensee to initiate domain name disputes and licensor and licensee are not affiliated with each other, the complainant must prove the licensor’s consent to the proceeding.

Relevant Decision:

Point of Sports GmbH v. Vinitsia Ltd, CAC 4881, <jetpilot.eu>, Transfer

Minority View: One Panelist considered that the lack of clear consensus in this regard could be solved by following the clear statement of the problem in WIPO cases on UDRP matters, where the rights of a subsidiary or parent to the registered holder are recognized.

Relevant Decision:

JD Sports Fashion Plc, Gareth Price v. Erika Gabler, CAC 7224, <chausports.eu>, Transfer

Minority View: One Panelist considered whether it should reject the complaint due to lack of evidence as to the written license agreement between the trademark holder and the Complainant. The Panel decided that a strict formalistic approach was not in the spirit of justice, and decided to use the “Formal v. Substantive” analysis derived from Swiss law. The principle allows for the Panel to consider arguments and finding that were not based on submitted evidence of the Parties. The principle can only be applied where the decision of the Panel is not surprising to the Parties.

Relevant Decisions:

Google Ireland Holdings, Liburd v. Alexander Bondarenko, CAC 7127, <google-statistics.eu>, Transfer
Benefit Cosmetics LLC, Christophe LeBoterff v. Domain Master, CAC 6295, <benefitcosmetics.eu>, Transfer

13. Can a non-EU trademark holder successfully file a case?

The current ADR practice is not continuous. Some panels argue that non-EU trademarks are also rights that are recognized by national and/or Community law as stated by Art. 21 (1) of the PPR.

Minority view: One Panel considered a non-EU trademark not to be a recognized right covered by the wording of Art. 21 (1) of the PPR without further explanation.
14. Can the respondent successfully contest relevance of a right of the complainant if the complainant did not apply for domain name registration during the Sunrise period?

**Consensus View:** If the complainant unsuccessfully tried to register a domain name during the Sunrise period he can initiate an ADR procedure under Art. 21 (1) of the PPR without limitation. The right holders were not obliged to register domain names because of their trademarks or names in respect of which a right is recognized or established by national and/or Community law during the Sunrise period. Furthermore, the trademark holders cannot be demanded to register all domains which are identical or confusingly similar to their trademark. The respondent cannot contest the relevance of the right of the complainant if the complainant has not tried to register the domain name during the Sunrise period.

**Relevant Decisions:**
- Tesco Stores ČR a.s. v. Milan Bajcár, CAC 4401, <itesco.eu>, Transfer
- McClean Deutschland GmbH v. Fridtjof Voelkening, CAC 2818, <mcclean.eu>, Transfer
- Discover Financial Services (UK) Limited v. Dinerscards Ltd, CAC 5646, <dinerscards.eu>, Transfer
- Sberbank of Russia, Sberbank Europe AG v. Sylux Sylwester Domitrz, CAC 6457, <sberbank.eu>, Revocation

15. Special issues relating to distinctive titles of protected literary and artistic works

**Consensus View:** Distinctive titles of protected literary and artistic works are valid rights regarding Art. 21 (1), 10 (1) of the PPR if they are titles in respect of which a right is recognized or established by national and/or Community law.

There are only a few cases which dealt with distinctive titles. In most of them the complainant or respondent had a registered trademark with the same name as the distinctive title.

**Relevant Decisions:**
- Koch Media GmbH v. Eijer Media, CAC 5351, <linerider.eu>, Transfer
- The JRR Tolkien Estate Limited v. Haik Tonoyan, CAC 4158, <silmarillion.eu>, Transfer
- Département des Hauts de Seine v. Tempus Enterprises Ltd., CAC 4204, <92.eu>, Denial

**Minority View:** In one case the panel stated that titles which are a generic term cannot be a valid right regarding Art. 21 (1) of the PPR.
III. Identity or confusing similarity

1. What is the test for identity or confusing similarity?

**Consensus View:** Among the panels it is the consensus view that for assessing identity or confusing similarity the .eu suffix has to be disregarded. Concerning confusing similarity the panel’s review consist of a comparison between the disputed domain name and the name for which a right is recognized or established by national and/or Community law.

**Relevant Decisions:**
- Diners Club International Ltd. v. Christel Morsink, CAC 4244, <dinerscard.eu>, Revocation
- Romantik Hotels & Restaurants GmbH & Co KG v. Kausani Enterprises Ltd., CAC 5128, <romantik.eu>, Transfer
- Diehl Stiftung & Co. KG v. H. Klomp, CAC 5824, <diehl.eu>, Transfer
- Bayer AG v. Zheng Qingying, CAC 4661, <bayergarden.eu>, Transfer
- Bayerische Motoren Werke AG (BMW AG) v. Jiri Svec, CAC 7151, <bmw-navigation.eu>, Transfer
- EuroFIR AISBL, Paul Finglas v. Sam Farrell, CAC 7188, <eurofir.eu>, Transfer
- Peuterey Group S.p.A. v. Jimme Hoek, CAC 6884, <eutereyoutletshop.eu>, Transfer
- MAPFRE FAMILIAR, COMPANIA DE SEGUROS Y RASEGUROS, S.A. v. L. Garcia LLC, Luis Garcia, CAC 6856, <mapfre-es.eu>, Transfer
- Television Broadcasts Limited, Chinese Channel Limited v. Michael Sing, CAC 6820, <tvbdo.eu>, Transfer
- Amazon Europe Holding Technologies SCS v. Solomon Jack, CAC 6643, <amazon-it.eu>, Transfer
- Liu Jo S.p.A., Ms. Serena Iori v. Studio Legale SIB, Mr. Carloalberto Goivannetti, CAC 6590, <liujooutlet.eu>, Transfer
- Peuterey Group S.p.A. v. Rivano Leenen, CAC 6886, <outlet-peuterey.eu>, Transfer
- JD Sports Fashion Plc v. Djamila Bouchemoua, CAC 6843, <chausport.eu>, Transfer
- VRK Holding A/S, Lisbeth Ferdinand-Petersen v. Andrew Hooper, CAC 7278, <veluxglazing.eu>, Transfer
- RS FRANCHISE v. MUSTPAHA MESSAOURI, CAC 7257, <reparstores.eu>, Transfer
- TIMOTION EUROPE SARL v. A&E Trading BV, CAC 7246, <timotion.eu>, Transfer
- JD Sports Fashion Plc, Gareth Price v. Erika Gabler, CAC 7224, <chausports.eu>, Transfer
- UAB Olifeja, Giedre Dailidenaitė v. MendesSoft, Marcelo Q. Varela Barraza, CAC 7226, <telelotobilietutikrinimas.eu>, Denial
- DivX, LLC, San Diego Calif., US, Daniel Schatz and Boehmert & Boehmert Partnerschaftsgesellschaft mbH, Dr. Andreas Dustmann v. Jan Schwarz, CAC 6813, <divxstage.eu>, Transfer
- Nexbit, Federico Panani v. M Jank, CAC 6800, <nextbit.eu>, Transfer
- National Westminster Bank Plc., Ms. Suzanne Wright v. Andrew Culloo, CAC 6629, <natwestplc.eu>, Transfer
- GRINDEKS, akciju sabiedrība v. Dzintars Leja, CAC 6595, <grindeks.eu>, Transfer
- Mötesplatsen i Norden AB v. UAB Novabrand, Oksana Dasevskaja, CAC 6526, <motesplaten.eu>, Transfer
- Smart Voucher Ltd t/a Ukash, Mr. Jamie King v. eKash International, Wendy Kessie, CAC 6458, <ekash.eu>, Transfer
- Deutsche Lufthansa AG v. Ronald Peeters, CAC 6452, <lufthansa.eu>, Transfer
- Swarovski Aktiengesellschaft, Mr Rudolf Haugg v. Marcel Hertz, CAC 6442, <swarovskischweizionlineshop.eu>, Transfer
- Vinci, Thérèse GASPAR v. None, rony gh, CAC 6430, <vinci-france.eu>, Transfer
- Zalando GmbH, Florian Linnardi v. Mickael LAGIER, CAC 6374, <sarenzalando.eu>, Revocation
- National Westminster Bank plc, Ms Suzanne Wright v. Gladys Oliyns, CAC 6339, <natwesttnbkplc.eu>, Transfer
According to the above stated one panel concluded that the use of e.g. some languages’ umlauts and acknowledged abbreviations e.g. of legal company forms which are not transferred into Domain names, must be disregarded when assessing the identity or confusing similarity.

Relevant Decision:
FC Bayern München AG, Dr. Michael Gerlinger v. Duncan Asset Management, Christopher Duncan, CAC 6901, <fc-bayern-munchen.eu>, Transfer

View 1: Some panels refuse to take anything else for their test but the wording of the domain name and the relevant right.

Relevant Decisions:
Lehigh Basin, Ltd. v. Stuttgarter Messe- und Kongress GmbH, CAC 2791, <messe-stuttgart.eu>, Transfer
Gailtaler Computerklinik, Markus Peter Jank v. Allianz AG - Group Legal Services - , Allianz AG, CAC 3207, <allianz-online.eu>, Transfer

2. Can the content of a website be relevant in determining whether a domain name is identical or confusingly similar?

View 2: Other panel decisions include also the content of the website and the goods for which the right is used to identify a confusing similarity.

Relevant Decisions:
Lexicon Media Ltd, Lexicon Media Ltd v. Fiere Internazionali di Bologna SPA - in short BolognaFiere SPA, Dr. Alessandro Savoia, CAC 4261, <MOTORSHOWBOLOGNAFIERE.eu>, Denial
Bernadette Selim Abou Zakhm v. Josef Bano CAC 4678, <Bano.eu>, Transfer
UK Domain Developers, LTD - Web Master, Web Master v. SANOFI-AVENTIS, Mrs. Bénédicte SIRVEN, CAC 4819, <ambiencr.eu>, Transfer
Zheng Qingying v. DDR Museum Berlin GmbH, Robert Rückel, CAC 5094, <ddr-museum.eu>, Transfer
Richard Anthony WINTER v. EDF, Roseline DESJUZEUR, CAC 4744, <edf-uk.eu>, Transfer

3. Can the use of a hyphen be relevant to the test of identity or confusing similarity?

The use of a hyphen or a lack of space between words are to be disregarded when assessing the identity or confusing similarity.

Relevant Decisions:
AB Dagens Nyheter, Machael Pettersson v. Quantic Design SRL, Romeo Vatra, CAC 7078, <dagens-nyheter.eu >, Transfer
The use or the lack of use of an apostrophe is not relevant to the test of identity or confusing similarity either.

**Relevant Decisions:**
RS FRANCHISE v. MUSTPAHA MESSAOURI, CAC 7257, <reparstores.eu>, Transfer

4. Is a domain name consisting of a name in respect of which a right is recognized or established by national and/or Community law and a negative term confusingly similar to that name? ("sucks cases")

The so called “suck cases”, in which domain names include a negative prefix according to a special name or trademark, have been discussed by the panel just in one case. In this one the confusing similarity was found. However, the panel emphasized that every case has to be considered on its own merits.

**Relevant Decision:**
Société Air France v. Lexicon Media Ltd., CAC 4141, <airfrancesucks.eu>, <airfrance-jp.eu>, Transfer

5. Is a domain name consisting of a name in respect of which a right is recognized or established by national and/or Community law and a generic, descriptive or geographical term confusingly similar to that name?

**Consensus View:** Domain names which include a name for which a right is recognized or established by national and/or Community law combined with descriptive or generic terms are confusingly similar to that name, especially in situation where the descriptive or generic terms describe the goods and/or services or the right holder.

**Relevant Decisions:**
SYNERGIS v. OLYMPIAKOS SYNESDOS FILATHON PIRAEUS, CAC 4218, <olympiakos.eu>, Transfer
ibiz hosting, Tamer Nurgel v. Société Air France, Jean-Marc BARDY, CAC 4645, <airfrance.eu>, Transfer
Monster Finance Limited, Rahat Kazmi v. Monster Worldwide Ireland Limited, CAC 5376, <monsterfinance.eu>, Transfer
LTUR Tourismus AG v. Rücker, CAC 283, <lastminute.eu>, Denial
Avery Dennison Corporation v. Dotasterisk Ltd, CAC 5126, <averygraphics.eu>, Transfer
hotel.be v. Internetportal und Marketing GmbH, CAC 3387, <hotel.eu>, Transfer
Allianz AG v. Gaitaler Computerklinik, CAC 3207, <allianz-online.eu>, Transfer
Bayerische Motoren Werke AG (BMW AG) v. Jiri Svec, CAC 7151, <bmw-nagivation.eu>, Transfer
Nikken UK Ltd, Mr Marcelo Pires v. Atina Travel EOOD, Ekaterina Gigova, CAC 6874, <nikkenbg.eu>, Transfer
IM PRODUCTION, Sophie Jacqueline v. Heinrich Grothuizen, CAC 6877, <isabelmarant-outlet.eu>, Transfer
Swarowski Aktiengesellschaft and D. Swarowski Kommanditgesellschaft v. Osama Abusultan, CAC 6787, <swarovskicrystalsale.eu>,
6. Do acronyms and abbreviations that have more than one meaning create legitimate interests in the disputed domain name?

Acronyms and abbreviations will not automatically grant a legitimate interest in the disputed domain name on the grounds that they could have more than one meaning:

Relevant Decision:
The University of Durham, Ms. Paulina Lubacz v. C.I.T., Amit Matalia, CAC 6710, <cem11plus.eu>, Transfer

7. Is a domain name which contains a common or obvious misspelling of a name in respect of which a right is recognized or established by national and/or Community law (“typosquatting”) confusingly similar to that name?

Consensus View: Domain names that contain obvious misspelling of names to which right is recognized or established by national and/or Community law are always confusingly similar to them. “Ty-
posquatting" is the baseline of confusion. Panels made clear that this type of domain registrations is used in bad faith to cause that users were led to a wrong site due to the similarity of the protected name and the registered domain name.

**Relevant Decisions:**
- Tárhely.eu Kft. v. DiMa.hu Kft, CAC 5593, <tárhely.eu>, Transfer
- Arla Foods amba v. juulandersen.com, CAC 4917, <arlafood.eu>, Transfer
- Sony Ericsson Mobile Communications AB v. Eva Povysilova, CAC 4539, <sonyericson.eu>, Transfer
- Enterprise Holdings, Inc. v. Domains Master, CAC 6542, <enterprize.eu>, Revocation
- IHG Hotels Limited, Mr. Douglas M Isenberg, Esq. v. Andrea Dini, CAC 6500, <crownplaza.eu>, Transfer
- SANOFI, Carole TRICOIRE v. Poussieres d’Etoiles, poussieres d etoiles, CAC 6492, <oenobio.eu>, Transfer

8. Can a domain name be found identical or confusingly similar to a figurative or combined trademark?

**Consensus View:** Domain names cannot be identical to figurative/combined trademarks as such trademarks can never be identically reproduced in a domain name. Domain names can be confusingly similar to figurative/combined trademarks. However, panels take into account different circumstances in assessing if there is confusing similarity.

The domain name is confusingly similar to the trademark if the word element is predominant, and can be clearly separated from the device element.

The domain name is not confusingly similar to the trademark if the word element is purely descriptive or combination of descriptive terms.

**Relevant Decisions:**
- E.T Browne (UK) Limited v. Fienna Limited, CAC 2235, <palmerscocoabutter.eu>, Transfer
- AIDA Cruises German Branch of Società di Crociere Mercurio S.r.L. v. Margarete Josten, CAC 5241, <aidatours.eu>, Transfer
- LEGO Juris A/S v. Jeff Fidler, CAC 5957, <harrypotterlego.eu>, Denial
- 1&1 Internet AG v. Juan Antonio Moreno Delgado, CAC 6203, <1and1miniweb.eu> Transfer
- Nicholas De Borrekenks v. Marcus F.M. Duncker, Joop Elzas, CAC 596, <restaurants.eu> Transfer
- British Swimming, Ashley Dominic Cox v. Zheng Qingying, CAC 3499, <britishswimming.eu> Revocation
- Brand Scout GmbH v. Georg Gottfried, CAC 4863, <babywell.eu> Transfer
- Fiere Internazionali di Bologna SPA - in short BolognaFiere SPA, Dr. Alessandro Savoia v. Lexicon Media Ltd, CAC 4761, <motorshowbolognafiere.eu>, Transfer
- The University of Durham, Ms. Paulina Lubacz v. C.I.T., Amit Matalia, CAC 6710, <cem11plus.eu>, Transfer
IV. Legitimate rights and interests of the respondent

1. Does a respondent automatically have rights or legitimate interests in a domain name comprised of dictionary word(s)?

**Consensus view:** After a “prima facie” case made by the complainant the respondent has to show rights or legitimate interests in the domain name. The domain name will be transferred to the complainant if the respondent fails, even if a domain name in question is comprised of a dictionary word or phrase. Important factors in this regard include pattern of conduct of the respondent, fame of the trademark and whether the domain name is used in its generic sense.

**Relevant Decisions:**
- Noonan Services Group v. OEEO NETWORKS LIMITED, CAC 5578, <noonan.eu>, Transfer
- Balver Zinn Josef Jost GmbH & Co KG v. Felder GmbH, CAC 2648, <balverzinn.eu>, Transfer
- LTUR Tourismus AG v. Rücker, CAC 283, <lastminute.eu>, Denial
- McClean Deutschland GmbH v. Fridtjof Voelkening, CAC 2818, <mcclean.eu>, Transfer
- Deutsche Lufthansa AG v. Ronald Peeters, CAC 6452, <lufthansa.eu>, Transfer

2. What constitutes a pattern of conduct?

A pattern of conduct of the Respondent is constituted in the sense of Article 21 (3) (b) (i) of the Regulation, e.g. where the Respondent has registered other domain names which all directly relate to the Complainant, its Trademarks, goods or services.

**Relevant Decisions:**
- Compagnie Générale des Etablissements Michelin v. PREMIUM ANVELOPE SERVICE-ROTI S.R.L., Budisteanu Serban, CAC 6970, <anvelope-michelin.eu>, Transfer
- Vanity Fair Inc, Les Dooley v. Taylor Wessing LLP, Mr. Roland Mallinson, CAC 6754, <vanityfairlingerie.eu>, Revocation
- Nextbit, Federico Pagani v. M Jank, CAC 6800, <nextbit.eu>, Transfer
- Zalando GmbH, Florian Linnardi v. Mickael LAGIER, CAC 6374, <sarenzalando.eu>, Revocation

3. Can a reseller of trademarked goods or services have rights or legitimate interests in a domain name which contains such trademark?

There is only one decision discussing the issue, therefore it is preliminary to consider it a consensus view. The panel adopted a view a reseller or distributor can make a “bona fide” offering of goods and services to have rights or legitimate interests in the domain name. The requirements include actual offering of the the goods or services at issue, selling only trademarked goods (so there is no use of the trademark to attract internet users and then switch them to other goods), clearly disclosing the registrant’s relationship to the trademark holder and not trying to “corner the market” in domain names similar or identical to the trademark. A reseller without authorization could also make a “bona
fide” offering of goods and services. Normally, pay-per-click websites do not fall within the “bona fide” offering of goods and services because of taking unfair advantage of the value of the trademark.

**Relevant Decision:**
Lego Juris A/S v. Jeff Fidler, CAC 5957, <harrypotterlego.eu>, Denial

4. Does a respondent’s trademark corresponding to a disputed domain name automatically generate rights or legitimate interests, especially in circumstances where it was obviously applied for in order to register the domain name?

**Consensus view:** Normally a registration of a trademark establishes respondent’s rights or legitimate interests in the disputed domain name. In cases where the overall circumstances demonstrated that such trademark had been registered primarily to circumvent the application of the PPR and the ADR Rules the panels declined to find respondent’s rights or legitimate interests in the disputed domain name.

**Relevant Decisions:**
- CINE CRAFT LTD. v. Traffic Web Holding B.V., CAC 4608, <private.eu>, Transfer
- Casual Male RBT LLC dba Rochester Big & Tall v. Rossie Ruben, CAC 6641, <casualmale.eu>, Transfer
- ALIMA znáčková potravina a.s. v. Perkins a.s., CAC 5633, <majolka.eu>, Transfer
- Yakult Europe B.V. v. Mark Weakley, CAC 5156, <yakult.eu>, Transfer
- Peuterey Group S.p.A. v. Jimme Hoek, CAC 6884, <peutereyoutletshop.eu>, Transfer

5. Is the complainant required to prove that the respondent lacks rights or legitimate interests in the disputed domain name?

The overall burden of proof lies with the complainant. Cases have shown that it is often impossible for a complainant to prove negative facts because some required information is only within the knowledge of the respondent. Therefore the complainant is only able to make a “prima facie” case that the respondent lacks rights and legitimate interests in the disputed domain name. The burden of proof shifts to the respondent then. If the respondent fails to show evidence of rights or legitimate interests it is deemed to have none. If the respondent demonstrates evidence of rights or legitimate interests the panel weights all the evidence. Nevertheless the general burden of proof always remains with the complainant.

**Relevant Decisions:**
- JACK WOLFSKIN Ausrüstung für Draussen GmbH & Co. KGaA v. THD Concept, CAC 5235, <jackwolfskin.eu>, Transfer
- Salu Inc v. Aphrodite Ventures Limited, CAC 4440, <skinstore.eu>, Revocation
- LOT Polish Airlines v. Alexander Schubert, CAC 1959, <lot.eu>, Transfer
- Müller Ltd. & Co. KG v. Cervos Enterprises Ltd., CAC 1827, <mueller.eu>, Transfer
6. To what extent is the national/community law relevant to a panel assessment of rights and legitimate interests and/or bad faith?

Par. B 3 (b) (8) of the ADR rules provides that the panel can admit or ask for, in its sole discretion, further statements or documents from either of the parties in addition to the complaint and the response.

The panels do not seem to apply national law except for assessment if there is a right to a name to which the domain name is identical or confusingly similar (which must be recognized or established by national and/or Community law). Nonetheless national law can be considered if the parties have the same nationality or location and if it seems appropriate.

Relevant Decisions:
Dansk Internet Forum v. Zhonglan, CAC 1644, <dk-hostmaster.eu>, Transfer
Bernhard Bauer v. Dirk Pauwels, CAC 131, <minitec.eu>, Denial

One Panel also considered national law when assessing the rights or legitimate interests of the Complainant which arose from an authorization given by the right holder to the Complainant.

Relevant Decision:
Schiess Tech GmbH v. Metalkid 2008, Razvan Zofota, CAC 6929, <SMTCL.eu>, Transfer

7. Does failure of a Respondent to respond to the complaint (respondent’s default) automatically result in the Complainant being granted the requested remedy?

Consensus View: A respondent’s default does not automatically result in a decision in favor of the complainant. The complainant has to establish the elements required by Article 21 (1) of the PPR, therefore the Complainant has to support its assertions with actual evidence. The Complainant therefore must present some evidence, meaning that the complainant must still discharge the burden of proof.
8. Is the Panel required to follow the evidence submitted by the Complainant, if the Respondent has failed to respond to the complaint (respondent’s default)?

In the absence of the response of the Respondent the Panels often regard factual allegations which are not inherently implausible as being true and consider the default of the respondent as an indication of the lack of rights and legitimate interests, and/or of the bad faith of the respondent. The Panellists still decide on whether or not the Complainant has relevant rights or legitimate interests.

In some cases the Panellists conduct independent investigations limited in scope to assess whether or not the Respondent has any rights or legitimate interests.

If the Complainant is considered to have lifted the burden of proof, the onus shifts to the Respondent, which does not lift the burden of proof, and therefor the Panellists follow the evidence submitted by the Complainant.
9. Can a criticism site generate rights or legitimate interests in the disputed domain name?

There have not been many decisions which discussed this problem yet. In all cases the respondent did not respond and a right or legitimate interest was denied by the panel. In concrete, the allegedly criticism site was not considered to generate legitimate interests in cases where it was not used at all or where it was used to criticise the competitor in order to gain its customers.

Relevant Decisions:
Société Air France v. Lexicon Media, Ltd., CAC 4141, <airfrancesucks.eu> inter alia, Transfer
Vargardahus AB vs. MadeleenFrihjelm, CAC 6020, <vargardahus.eu>, Transfer
Schiess Tech GmbH v. Metalkid 2008, Razvan Zofota, CAC 6929, <SMTCL.eu>, Transfer

10. Can a fan site generate rights or legitimate interests in the disputed domain name?

There are only few decisions discussing the issue, therefore it is preliminary to consider it a consensus view. The panel adopted a view which is held also amongst UDRP panels: a fan website might generate legitimate interests, as an expression of the human right of free speech, if the use of the domain name is noncommercial and the website is in fact arranged as a fan site. The last point may refer to considerations found within UDRP, that fan sites have to be clearly distinctive from any official site. Few Panels stated that the fact of banner- and/or pop-up-advertisement does not prevent the use from being legitimate fair use, as it is only minor commercial activity.

Relevant Decisions:
Henri-Lloyd Ltd. vs. MinisoftLda, CAC 2806, <henrilloyd.eu>, Transfer
FelaElektronik GmbH vs. Matthias Moench, CAC 3266 <Fela.eu>, Transfer
Re-Logic, Inc. v. Kenneth Buhrs, CAC 7168, <teeria.eu> and <$teeria.eu>, Denial
WARGAMING.NET LLP, Maître Pierre Miriel v. Irina Zapolsky, CAC 6252, <worldofwarplanes.eu>, Transfer

11. Do parking and landing pages or pay-per-click links generate rights or legitimate interests in the disputed domain name?

Consensus View: Use of a domain name to post parking pages or mere pay-per-click links does not of itself confer rights or legitimate interests, especially if links lead to websites of the right holder’s competitors.

Relevant Decisions:
ABAT AG vs. Georg Gottfried, CAC 3976, <abat.eu>, Transfer
Esprit Retail Wholesale GmbH vs. Max Kudrenko, CAC 3926, <esprit.eu>, Transfer
Brand Scout GmbH vs. Georg Gottfried, CAC 4863, <babywell.eu>, Transfer
Mary Zeng vs. Enterprise Rent-a-Car UK, CAC 4337, <ENTERPRISECARRENTAL>, Transfer
12. Does so called "direct navigation" generate rights or legitimate interests in the disputed domain name?

**View 1:** Many panels tend to consider direct navigation sites to generate rights or legitimate interests if the chosen domain name has generic character (it is consisting of dictionary or common words or phrases) and the provided links are coherent and related to the generic meaning of the domain name at issue. Last point divides direct navigation sites and mere parking sites with pay-per-click revenue, which do not confer rights or legitimate interest for themselves, but in most cases where the respondent claimed to run a direct navigation site the panel found that the provided links weren't related to the meaning of the word/s that constituted the domain name and/or the domain name was in fact parked.

**Relevant Decisions:**
- Haji GmbH vs. Ovidio Ltd., CAC 2381, <haji.eu>, Transfer
- Unibail Holding SA vs. Ovidio Ltd., CAC 2123, <unibail.eu>, Transfer
- Alexis Coussement Lumieres vs. Ovidio Ltd., CAC 3949, <acl.eu>, Transfer
- Enterprize Holdings, Inc. v. Domains Master, CAC 6542, <enterprize.eu>, Revocation

**View 2:** The use of a trademark as a domain name for a direct navigation business cannot establish a right or legitimate interests, as it is capitalization of the trademark value.

**Relevant Decision:**
- Tobias Grau GmbH vs. Mandarin & Pacific Services Ltd., CAC 4829 <tobiasgrau.eu> inter alia, Transfer

13. Can Respondent have relevant rights or legitimate interest due to a company name?

Only one Panellist considered this, and stated that it was not sufficient for a respondent to establish that a disputed domain name contains the Respondent's company name, but a respondent must also establish that he or she is using his or her company name as a business name, i.e. he or she is using his or her company name in the course of business on a regular basis.
V. Bad faith

1. Which actions have to be done in bad faith? The registration or the use of the domain name, or even both?

**Consensus view:** It is not necessary to prove both registration and use in bad faith; it is sufficient if evidence illustrates one of the two elements discussed in order to comply with article 21 (1) of the PPR.

**Relevant Decisions:**
- Carrier SCS v. Kurt Janusch, CAC 1901, <carrier.eu>, Transfer
- Société Air France v. Lexicon Media, CAC 4141, <airfrancesucks.eu>, Transfer
- ISOBAR COMMUNICATIONS B.V. v. Y-6 Ltd, CAC 4127, <ipropect.eu>, Transfer
- Topreality.sk s.r.o. v. Pavel Šimon, CAC 6049, <topreality.eu>, Transfer
- Joachim Oldendörp v. Miguel Rebelo Silva, CAC 6328, <eyedoc.eu>, Denial

**Minority View:** Some Panels do not discuss whether it is enough only to establish either registration or use in bad faith, but consider both options.

**Relevant Decision:**
- Zalando GmbH, Florian Linnardi v. Mickael LAGIER, CAC 6374, <sarenzalando.eu>, Revocation

2. Can bad faith in registering the domain name be found if the domain name was registered or used before trademark was registered or before unregistered trademark rights were acquired?

Bad faith in registering the domain name can be found if the changing of registration counts as fresh registration and if a trademark was not registered by the complainant but used in trademark sense and the respondent was aware and wanted to take advantage of it.

It is difficult to establish bad faith in circumstances where the respondent’s registration of the disputed domain name actually pre-dates the registration of the trademark rights relied upon by the complainant. Bad faith is likely if the respondent has registered the disputed domain name in anticipation that the complainant may wish to secure the disputed domain name.

However, if the respondent could not have been aware of yet not even existing trademark rights there can be no bad faith. This is also the case if no evidence of prior rights exists.
Relevant Decisions:
Jager & Polacek GmbH v. Redtube, CAC 5891, <redtube.eu>, Transfer
MONTES DE PIEDAD Y CAJA DE AHORROS DE RONDA v. interdominios, CAC 5527, <unicajasur.eu>, Transfer
Nordic Naturals v. UK DOMAIN DEVELOPERS LTD, CAC 5379, <nordicnaturals.eu>, Revocation
Contrinex GmbH v. Martin Writh, CAC 3044, <contrinex.eu>, Denial
CodeProject Solutions Inc. v. Przemysław Malak, CAC 7258, <codeproject.eu>, Revocation

3. Can there be use in bad faith when the domain name is not actively used (passive holding)?

Panels’ decisions have not been unanimous. Most panels think of nonuse as of a proof of bad faith. It is discussed, however, whether nonuse alone is enough to prove bad faith or if it only indicates bad faith.

The presence of static web pages does not constitute sufficient use of a domain. If the respondent wants to show the use of his domain, at least serious preparation before the beginning of the proceeding is needed.

Relevant Decisions:
ABB Asea Brown Boveri Ltd v. Mr. Luigi Silvestri, CAC 5831, <abbgroup.eu>, Transfer
Inbokss SIA v. Worldwide Brands BVBA, CAC 5892, <inbox.eu>, Transfer
Groupe Partouche v. J.P. Klomp, CAC 5901, <partouche.eu>, Transfer
Diehl Stiftung & Co. KG v. H. Klomp, CAC 5824, <diehl.eu>, Transfer
Enagás S.A v. SIA Zirafe L, CAC 5755, <enagas.eu>, Transfer
Intesa Sanpaolo S.p.A v. ZHENG QINGYING, CAC 5374, <carive.eu>, Transfer
Network Solutions Europe v. BSYS bvba, CAC 5333, <netsol.eu>, Revocation
Ferriera Valsabbia SpA v. Lexicon Media Ltd., CAC 5250, <ferriera-valsabbia.eu>, Transfer
PETROM SA v. Kurt Janusch, CAC 5087, <petrom.eu>, Transfer
W. P. Carey v. cc, jm, CAC 4887, <wpcarey.eu>, Revocation
Brand Scout GmbH v. Georg Gottfried, CAC 4863, <babywell.eu>, Transfer
Interactive Brokers (U.K.) Ltd v. Georg Gottfried, CAC 4438, <interactive-brokers.eu>, Transfer
Mäurer + Wirtz GmbH & Co. KG v. Fienna.com, CAC 4410 <4711.eu>, Transfer
Cork City Council v. Traffic Web Holding B.V., CAC 3230, <cork.eu>, Transfer
Walter Kraus GmbH v. Kraus GmbH, CAC 5797, <kraus.eu>, Transfer
AXA v. Sylux Sylvester Domitrz, CAC 5544, <axabank.eu>, Transfer
CharterLine Fuhrpark-Service GmbH v. Fienna.com, CAC 4949, <buchbinder.eu>, Transfer
Société Air France v. Lexicon Media Ltd., CAC 4141, <airfrancesucks.eu>, Transfer
Stadt Koeln v. Tempus Enterprises Ltd., CAC 2781, <koeln2010.eu>, Transfer
Precitec KG v. Precitec B.V., CAC 5266, <precitec.eu>, Denial
JD Sports Fashion Plc v. Djamila Bouchenoua, CAC 6843, <chausport.eu>, Transfer

It is also discussed whether the use of a domain for the purpose of sending and receiving emails is sufficient. Most panels concluded that the use of a domain name for email correspondence may constitute relevant use of the domain name, however, emails must be proven - the mere reference to
general, abstract data like the number of emails sent and received is not sufficient.

Relevant Decisions:
- Hoefer & Partner Patentanwälte Partnerschaftsgesellschaft v. Thomas Hoefer, CAC 5487, <hoefer.eu>, Denial
- HAUG GmbH & Co. KG v. Winfried Haug, CAC 5208, <haug.eu>, Transfer
- Boltze Gruppe GmbH v. Birgit Boltze, CAC 5231, <boltze.eu>, Transfer
- Joachim Oldendörp v. Miguel Rebelo Silva, CAC 6328, <eyedoc.eu>, Denial

Nonuse for at least two years from the date of registration is mostly seen as proof of bad faith, while other panels consider it to be only an indication for bad faith. The inconsistency of decisions is supported by the inconsistency in the specific language versions of the PPR – while some language versions (e.g. German) say that in case of nonuse for two years the bad faith “is demonstrated”, others (e.g. English and French) say that it “may be demonstrated”.

Relevant Decisions:
- Nobilia-Werke J. Stickling GmbH & Co. KG v. Aristides Safarikas, CAC 5450, <nobilia.eu>, Denial
- Precitec KG v. Precitec B.V., CAC 5266, <precitec.eu>, Denial
- Société Air France v. Lexicon Media Ltd., CAC 4141, <airfrancesucks.eu>, Transfer
- All Star C.V. and Converse Inc. v. Goallower Limited, Caller Robin, CAC 7238, <converse.eu>, Transfer
- Cash Converters Pty Ltd; Cash Converters (UK) Limited v. Xedoc Holdings, SA, Admin Domain, CAC 6346, <cashconverters.eu>, Transfer

The Complainant’s proof of the Respondent’s use prior to the nonuse can lead to conclusion of the Respondent’s bad faith.

Relevant Decision:
- Peuterey Group S.p.A. v. WdS, Darek, CAC 6917, <peutereydonna.eu>, Transfer

4. Can constructive notice, or a finding that a respondent “knew or should have known” about a trademark, or willful blindness, form a basis for finding bad faith?

Consensus view: A situation in which the respondent could or must have known of the facts is enough to indicate bad faith. This is especially the case if the respondent is a customer or a competitor of the complainant or if he uses systematic domain registrations (domain grabbing). If a non-generic term is used as domain name which is unlikely to have been registered by chance, this usually proves bad faith. Therefore, using a generic term as domain name supports the assumption of good faith. The registration of generic names which are economically highly interesting cannot stand alone as an indication of bad faith, but needs to be accompanied by other indications, e.g. a pattern of conduct.

Relevant Decisions:
- Alterian Technology Limited v. Paul McGowan, CAC 4296, <alterian.eu>, Transfer
If the complainant is well known and search on any relevant search engine reveals links that relate to him, or the complainant has a long standing history and reputation in a name, this so called willful blindness constitutes bad faith. Before paying registration fees, the respondent is able to enter the relevant domain name into a search engine and thereby become aware of existing rights, except of cases where large numbers of domain names are registered simultaneously. Another indication is the use of popularity to gain more traffic.

**Relevant Decisions:**

- Formula One Licensing BV v. RoosIT, CAC [2955], <f1.eu>, Transfer
- New York University in France v. Vinitsia, CAC [4923], <nyu.eu>, Transfer
- Carrier SCS v. Kurt Janusch, CAC [1901], <carrier.eu>, Transfer
- Société Air France v. Lehigh Basin, CAC [4318], <airfrance.eu>, Transfer
- Sony Ericsson Mobile Communications AB v. B-D-S, CAC [4423], <sonyericsson.eu>, Transfer
- Wildbore & Gibbons v. Giedrius Mazurka, CAC [2695], <bunac.eu>, Transfer
- Diehl Stiftung & Co. KG v. H. Klomp, CAC [5824], <diehl.eu>, Transfer
- eprimo GmbH v. Zheng Qingying, CAC [5384], <eprimo.eu>, Transfer
- SYNGENTA PARTICIPATIONS AG v. Baris Dienstverleihung, CAC [5380], <syngentaseeds.eu>, Revocation
- ACCOR S.A. v. A1Domains, CAC [5167], <formule1-hotel.eu>, Transfer
- Medtronic BV v. Kausani Enterprises Ltd., CAC [4497], <medtronic.eu>, Transfer
- Sampo Oyj v. Pillerbl OY, CAC [5295], <sampolife.eu>, Transfer
- Red Hat GmbH v. erase, CAC [4749], <boss.eu>, Transfer
- Fiere Internazionali di Bologna SPA v. Midweb S.R.L., CAC [4362], <fieradibologna.eu>, Transfer
- Mäurer + Wirtz GmbH & Co. KG v. Fienna.com, CAC [4410], <4711.eu>, Transfer
5. Can statements made in settlement discussions be relevant to showing bad faith?

Every statement in the discussion can be relevant to constitute bad faith. Even the absence of a response from the respondent, might be an indication of the respondent’s bad faith.

**Relevant Decisions:**

E.T Browne (UK) Limited v. Fienna Limited, CAC 2235, <palmerscocoabutter.eu>, Transfer
AOL UK v. Name Battery Limited, CAC 4039, <aolmail.eu>, Transfer
ISOBAR COMMUNICATIONS B.V. v. Y-6 Ltd., CAC 4177, <iprospect.eu>, Transfer
Sony Ericsson Mobile Communications AB v. B-D-S, CAC 4423, <sony-ericsson.eu>, Transfer
Avery Dennison Corporation v. Dotasterisk Ltd., CAC 5126, <averygraphics.eu>, Transfer
New York University in France v. Vinitsia, CAC 4925, <nyu.eu>, Transfer

If the respondent cannot be reached and the addresses declared in its domain name application appear to be false, it might be an indication of bad faith.

**Relevant Decisions:**

Société Air France v. Lehigh Basin, CAC 4318, <e-airfrance.eu>, Transfer
Point of Sports GmbH v. Vinitsia Ltd., CAC 4881, <jetpilot.eu>, Transfer

6. Does an offer to sell a domain constitute bad faith?

An offer to sell is not necessarily a proof for bad faith, but can be an indication of bad faith combined with other circumstances of bad faith, e.g. the lack of use of the disputed domain name. There is nothing per se wrong in selling domain names.
Relevant Decisions:
Jager & Polacek GmbH v. Redtube, CAC 5891, <redtube.eu>, Transfer
My Home Limited v. My Home S.A., CAC 4560, <myhome.eu>, Denial
Reale Mutua Assicurazioni v. Zheng Qingying, CAC 4517, <realemutua.eu>, Transfer
CENTRAL UNION OF MUNICIPALITIES AND COMMUNITIES OF GREECE v. ZHENG QINGYING, CAC 5282, <kedke.eu>, Denial
SECURITY-CENTER GmbH & Co KG v. Security Center Rotterdam B.V., CAC 4048, <securitycenter.eu>, Denial
SEVEN FOR ALL MANKIND LLC v. Riazul Quadir, CAC 2300, <7forallmankind.eu>, Revocation
Google Ireland v. Stefan Kraayema, CAC 3292, <egoogle.eu>, Transfer
E.T Browne (UK) Limited v. Fienna Limited, CAC 2235, <palmerscocoabutter.eu>, Transfer
Mrg. Erik Jurista v. Blue Monkey Ltd, Domain Manager, CAC 7159, <jurist.eu>, Denial
Tecnobat di Battipaglia Ciro David v. UAB Game Insight, CAC 7171, <game-insight.eu>, Transfer
Vanity Fair, Inc, Les Dooley v. Liu Zhijun, CAC 6754, <vanityfairlingerie.eu>, Revocation
Nextbit, Federico Pagani v. M Jank, CAC 6800, <nextbit.eu>, Transfer
Grape Technology Group, Inc. and kgbdeals (UK) Limited, Desiree Fields. Domain Directors Europe Ltd, Domain Administrator, CAC 6506, <kgbdeals.eu>, Transfer
IHG Hotels Limited, Mr. Douglas M Isenberg, Esq. v. Andrea Dini, CAC 6500, <crownplaza.eu>, Transfer
Swarovski Aktiengesellschaft, Mr Rudolf Haugg v. Marcel Hertz, CAC 6442, <swarovskischweizonlineshop.eu>, Transfer
Yahoo! Inc., Yahoo! UK Limited v. Toma Cristian, CAC 6281, <yahooscan.eu>, Transfer

To be considered a proof, there must be a primary intention to sell, though primary does not mean exclusive.

Relevant Decisions:
Dansk Internet Forum v. Zhonglan, CAC 1644, <dk-hostmaster.eu>, Transfer
SECURITY-CENTER GmbH & Co KG v. Security Center Rotterdam B.V., CAC 4048, <securitycenter.eu>, Denial
Dayco Europe S.r.l. v. Titan MPA Ltd., CAC 5648, <dayco.eu>, Transfer & Revocation
Discover Financial Services Ltd. v. Dinerscards Ltd., CAC 5646, <dinerscards.eu>, Transfer
Intesa Sanpaolo S.p.A. v. ZHENG QINGYING, CAC 5374, <carive.eu>, Transfer
JACK WOLFSKIN Ausrüstung für Draussen GmbH & Co. KGaA v. THD Concept, CAC 5235, <jackwolfskin.eu>, Transfer
Deutsche Telekom AG v. Citrusnet, CAC 5347, <telekom24.eu>, Transfer
Romantik Hotels & Restaurants GmbH & Co KG v. Kausani Enterprises Ltd., CAC 5128, <romantik.eu>, Transfer
CITY BKK Körperschaft des öffentlichen Rechts v. Marnix Brands, CAC 4590, <citybkk.eu>, Transfer
Sberbank of Russia, Sberbank Europe AG v. Sylux Sylvester Domitraz, CAC 6457, <sberbank.eu>, Revocation
Netto Marken-Discount AG & Co. KG, Netto Marken-Discount AG & Co. KG v. FLEISENservice-WIRKOWSKI, Andreas Wirkowski, CAC 6380, <netto-online.eu>, Transfer

Could the behavior of the respondent be seen as domain trading, this constitutes bad faith.

Relevant Decisions:
Sport1 GmbH v Khay Haong, CAC 3108, <sport1.eu>, Transfer
BORMIOLI ROCCO E FIGLIO SPA v. Inames UK, CAC 4049, <bormiolirocco.eu>, Transfer
Medtronic BV v. Kausani Enterprises Ltd., CAC 4497, <medtronic.eu>, Transfer
Camlock Systems Limited v. Zheng Qingying, CAC 4515, <camlock.eu>, Transfer
Bayer AG v. Zheng Qingying, CAC 4661, <bayergarden.eu>, Transfer
7. Is there a need to show bad faith if there is no legitimate interest?

If there is no legitimate interest, there is no need for the complainant to prove bad faith. Thus frequently the Panel decides to address both the legitimate interest and the bad faith, especially when the respondent failed to submit a response.

Relevant Decisions:
ANDREAS I. KANNAS & SONS LIMITED v. Zheng Qingying, CAC 5941, <kannas.eu>, Transfer
PARTSLIFE GmbH v. Mandarin & Pacific Services Ltd., CAC 5149, <partslife.eu>, Transfer
Luc Bertrand v. PCL, CAC 4249, <utbm.eu>, Transfer
Tárhely.eu Kft. v. DiMa.hu Kft, CAC 5593, <tärhely.eu>, Transfer
Casual Male RBT LLC dba Rochester Big & Tall v. Rossie Ruben, CAC 4641, <casualmale.eu>, Transfer
 Noonan Services Group v. OEO NETWORKS LIMITED, CAC 5578, <noonan.eu>, Transfer
Electric Sheep Fencing LLC and Rubicon Communications LLC v. Halma Automatisering, CAC 7162, <pfsense.eu>, Transfer
ANTONIA LLUSAR Y CIA, S.L. v. Jesus Llusar, CAC 7303, <llusar.eu>, Transfer
People Per Hour Ltd, Mr Michael Luna v. Dreamscape Networks Limited, Web Master, CAC 7234, <peopleperhour.eu>, Transfer
Deutsche Lufthansa AG v. Ronald Peeters, CAC 6452, <lufthansa.eu>, Transfer
Zalando GmbH, Florian Linnardi v. Mickael Lagier, CAC 6374, <sarenzalando.eu>, Revocation
 SmithKline Beecham Limited and SmithKline Beecham Limited v. GSKline Limited, CAC 6341, <gskline.eu>, Transfer
ECCO Sko A/S, Julie Marie Niebuhr Aagaard v. qingniang zhuang, CAC 6247, <eccosko.eu>, Transfer
Otokar Otomotiv ve Savunma Sanayi A.S. v. Gbenga Osoba, CAC 7202, <otokar.eu>, Transfer

Moreover, the registration of a domain name identical or confusingly similar to a famous trade mark without legitimate interest or a right in the name constitutes a strong presumption of bad faith.

Relevant Decision:
Société Air France v. ibiz hosting, CAC 4645, <airfranceonline.eu>, Transfer

Although not obliged to do so, Panels sometimes choose to examine the bad faith for "the sake of completeness" in order to be in line with "best practice".

Relevant Decisions:
Nikken UK Ltd, Mr Marcelo Pires v. Atina Travel EOOD, Ekaterina Gigova, CAC 6874, <nikkenbg.eu> Transfer
IM PRODUCTION, Sophie Jacqueline v. Heinrich Groothuizen, CAC 6877, <isabelmarant-outlet.eu>, Transfer
Mr. Leonid Bouryi v. Taisia Tomah, CAC 6795, <marathonbet.eu>, Revocation
JD Sports Fashion Plc v. Djamila Bouchemoua, CAC 6843, <chausport.eu>, Transfer
Otokar Otomotiv ve Savunma Sanayi A.S. v. Gbenga Osoba, CAC 7202, <otokar.eu>, Transfer
NRG Manufacturing Limited v. Peter Newton, CAC 6870, <gestetner.eu>, Transfer
Nextbit, Federico Pagani v. M Jank, CAC 6800, <nextbit.eu>, Transfer
Yahoo! Inc., Yahoo! UK Limited v. Toma Cristian, CAC 6281, <yahooscan.eu>, Transfer
Some Panels considered it enough that the Complainant had proved the Respondent’s use in bad faith, and therefore found no reason to consider if the respondent had any rights or legitimate interests.

**Relevant Decisions:**
- VKR Holding A/S, Lisbeth Ferdinand-Petersen v. Andrew Hooper, CAC 7278, <veluxglazing.eu>, Transfer
- Tinder, Incorporated v. Margret Eagle, CAC 7240, <gotinder.eu>, Revocation
- GRINDEKS, akciju sabiedrība v. Dzintars Leja, CAC 6595, <grindeks.eu>, Transfer
- Netto Marken-Discount AG & Co. KG, Netto Marken-Discount AG & Co. KG v. FLIESENservice-WIRKOWSKI, Andreas Wirkowski, CAC 6380, <netto-online.eu>, Transfer

On the other hand, even though the Respondent does have legitimate interests in the disputed domain name, it is still possible for the Complainant to establish the Respondent’s bad faith and thus getting the Panel to sustain the claim.

**Relevant Decision:**
- CodeProject Solutions Inc. v. Przemysław Malak, CAC 7258, <codeproject.eu>, Revocation

8. Are there other indications of bad faith besides those listed in Art. 21 (3) of the PPR?

**Consensus view:** The list contained in Article 21 (3) of the PPR is not exhaustive.

Therefore, panels have also considered following circumstances as evidence of bad faith in registration and/or use:

- If the registrant uses a fictitious name, address or tries to hide his identity this behavior could be considered as a strong evidence for bad faith.

**Relevant Decisions:**
- Inbokss SIA v. Worldwide Brands BVBA, CAC 5892, <inbox.eu>, Transfer
- Merck Santé v. Zheng Qingying, CAC 3773, <monot.eu>, Transfer
- LTUR Tourismus AG v. Rücker, CAC 283, <lastminute.eu>, Denial
- Jack Wolfskin Ausrüstung für Draussen GmbH & Co. KG, Severin Canisius v. Wolfskin apparels co. ltd, Maurizio Caldi, CAC 6585, <jack-wolfskinsjacket.eu>, Transfer
- Benefit Cosmetics LLC, Christophe LeBoterff v. Domain Master, CAC 6295, <benefitcosmetics.eu>, Transfer
- Zalando GmbH, Florian Linnardi v. Mickael LAGIER, CAC 6374, <sarenzalando.eu>, Revocation

- An automated registration can be seen as a prevention of the right holder from reflecting its name in a corresponding domain name, or disruption of the professional activities of a competitor, and therefore is an indication of bad faith.

- The respondent is a party to several finished or ongoing proceedings, abuses the proceeding or he is undermining the principles of the .eu domain.
However, a pattern of conduct is not proven if the respondent has rights and/or legitimate interest in the name, e.g. the domain name is the respondent’s trade name.

A registration for the purpose of gaining profit is indicated if sponsored links are posted on the website or if the respondent is receiving pay-per-click-fees. Registration for the purpose of gaining profit can be an indication of bad faith.
• Bad faith can be found if the respondent wants to create a false impression that he is affiliated with the complainant or wants to profit of the confusion of their products. Also, the content of the domain can be relevant for the panels.

**Relevant Decisions:**
- Otokar Otomotiv ve Savunma Sanayi A.S. v. Gbenga Osoba, CAC 7202, <otokar.eu>, Transfer
- DivX, LLC, San Diego Calif., US, Daniel Schatz and Boehmert & Boehmert Partnerschaftsgesellschaft mbH, Dr. Andreas Dustmann v. Jan Schwarz, CAC 6813, <divxstage.eu>, Transfer
- Smart Voucher Ltd t/a Ukash, Mr. Jamie King v. eKash International, Wendy Kessie, CAC 6458, <ekash.eu>, Transfer

• If the respondent uses the domain name to support the complainant’s competitors, such behavior can be seen as evidence of bad faith.

**Relevant Decisions:**
- AVAST Software a.s. v. Avira GmbH, CAC 5739, <avast.eu>, Transfer
- SCOTCH & SODA B.V. v. S&S Piotr Szlegiel, CAC 5529, <soda-brand.eu>, Transfer
- Populair A/S v. Jacobus van Hintum, CAC 5683, <pandoracharms.eu>, Transfer
- Balver Zinn Josef Jost GmbH & Co KG v. Felder GmbH, CAC 2648, <balver-zinn.eu>, Transfer
- GASTRO JOBS EDV-Dienstleistungen GmbH v. Manfred Theis, CAC 1693, <gastrojobs.eu>, Transfer
- AIDA Cruises German Branch of Società di Crociere Mercurio S.r.L. v. Florian Hitzelberger, CAC 5747, <aidakreuzfahrten.eu>, Transfer
- ORIEME ITALIA S.p.A. v. ICRON SERVICES LTD, CAC 5844, <orieme.eu>, Transfer
- Avery Dennison Corporation v. Dotasterisk Ltd, CAC 5126, <averygraphics.eu>, Transfer
- Korn/Ferry International Corporation v. Aphrodite Ventures Limited, CAC 4843, <kornferry.eu>, Revocation

• A pattern of conduct as meant in Article 21 (3) (b) (i) of the PPR may be indicated by the volume of the respondent’s domain name registrations. This is the case if the respondent registered a large number of domain names corresponding to trade marks.

**Relevant Decisions:**
- Memorex Products Europe Limited v. Goallover Limited, CAC 1196, <memorex.eu>, Transfer
- LOT Polish Airlines v. Alexander Schubert, CAC 1999, <lot.eu>, Transfer
- SALOMON S.A. v. Vinitsia Ltd., CAC 4769, <salomonports.eu>, Transfer
- Reale Mutua Assicurazioni v. Zheng Qingying, CAC 4517, <realemutua.eu>, Transfer
- New York University in France v. Vinitsia Ltd, CAC 4975, <nyu.eu>, Transfer
- Fundacio Esade v. Zheng Qingying, CAC 3641, <esade.eu>, Transfer
- FGSPORT S.r.l. v. Zheng Qingying, CAC 3885, <worldsbk.eu>, Transfer
- Ursula Hahn v. Zheng Qingying, CAC 3444, <ocunet.eu>, Transfer
- Merck Santé v. Zheng Qingying, CAC 3773, <monot.eu>, Transfer
- Camlock Systems Limited v. Zheng Qingying, CAC 4515, <camlock.eu>, Transfer
- SANOFI-AVENTIS v. DE JONG M., CAC 4132, <acompliaoriginal.eu>, Transfer
- HORMEL FOODS CORPORATION v. Markus Koetti, CAC 568, <spam.eu>, Transfer