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attached to the Economic Chamber of the Czech Republic
and Agricultural Chamber of the Czech Republic

Czech Arbitration Court

**Overview of CAC Panel Views on Selected Questions
of the Alternative Dispute Resolution for .EU Domain Name
Disputes, 2nd Edition
("CAC .EU Overview 2.0")**

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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. 733/2002 of the European Parliament and of the Council of 22 April 2002 on the implementation of the .eu Top Level Domain](#)

[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>, Annulled
 Ultrasun International B.V. v. EURid, CAC [541](#), <ultrasun.eu>, Rejected
 carrentals.co.uk v. EURid, CAC [3034](#), <carrentals.eu>, Annulled
 Axel Arnulf Pfennigv. Online Shopping Limited, CAC [3257](#), <shopping.eu>, Rejected
 Schaeffler 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. Djamilia 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 [5405](#), <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 Nominant 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 [1683B](#), <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 [7168](#), <teeria.eu> and <jteeria.eu>, Denial

Inter IKEA Systems B.V., Martin Broden v. PM Meulenijzer, PM Meulenijzer, CAC [6640](#), <ikeawilrijk.eu, ikeaaanderlecht.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 Osuuskappojen Keskuskunta 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 [3495](#), <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:

General Electric Company v. Marketing Total S.A., WIPO Case No. [D2007-1834](#), <generalelectric.com> inter alia, Transfer
Pernod Ricard v. Tu cows.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
Josef Bano v. Bernadette Selim Abou Zakhm, CAC [4678](#), <bano.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:

Bassano Grimeca S.p.A. v. Kausani Enterprises Ltd, CAC [4324](#), <grimeca.eu>, Transfer

Česká inženýrská a.s. v. Ovidio Ltd, CAC [4393](#), <cias.eu>, Transfer

Continental Airlines, Inc & Continental Airlines Domain Name Ltd v. Kanzlei Berger, CAC [4979](#), <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 [5559B](#), <paris.eu>, Rejection

Logintrans spółka z ograniczoną odpowiedzialnością v. Traffic Web Holding B.V., CAC [2369B](#), <trans.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 languages 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 [2675B](#), <vivartia.eu>, Rejection
White & Case LLP v. Tomáš Nagy, CAC [1683B](#), <whitecase.eu> inter alia, Rejection
Protective Komfort Group International Pavigym International v. Team X, s.r.o, CAC [5100B](#), <pavigym.eu>, Rejection
Ville de Paris v. H. Klomp, CAC [5559B](#), <paris.eu>, Rejection
Logintrans spółka z ograniczoną odpowiedzialnością v. Traffic Web Holding B.V., CAC [2369B](#), <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 [4320B](#), <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 [4300B](#), <buddylist.eu>, Accepted
OLYMPIAKOS SYNDESMOS FILATHLON PIRAEUS P.A.E. v. Biuro Pomocy Adwokackiej i Patentowej, CAC [4375B](#), <redstore.eu>, Accepted.
Hlavní město Praha v. Traffic Web Holding B.V., CAC [4681B](#), <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 replied, 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 [5739B](#), <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

Koudsi Graphics V.O.F. v. Zheng Qingying, CAC [5818B](#), <koudsi.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 [1717](#), <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. ██████████, CAC [3465](#), <rotary.eu>, Revocation

Sepracor Inc. v. Adil Akkus, CAC [5174](#), <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. Przemysław 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 Coromantv. Mikael 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. Vinitia, 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

Sanofi Aventis v. UK Domain Developers, Ltd., CAC [4819](#), <ambienr.eu>, Transfer
 KG Industries LLCv. KG Industries, Gary Powell KG Industries, CAC [5572](#), <kgindustries.eu>, Revocation
 Barclays Bank Plc v. Simon Allso, CAC 6071, <barclaycorporatefunding.eu>, Transfer
 Mou Limited, Shelley Tichbourne v. Franziska Hirsch, CAC [7201](#), <mouboots.eu>, Transfer
 Television Broadcasts Limited, Chinese Channel Limited v. Michael Sing, CAC [6820](#), <tvbdo.eu>, Transfer
 Ms heidi tandy, Esq. v. smartling, Remigiusz Kokot, CAC [7209](#), <smartling.eu>, Revocation
 Nextbit, Federico Pagani v. M Jank, CAC [6800](#), <nextbit.eu>, Transfer
 Rainbow Medical Engineering Ltd, Professor Luigi Martini v. Eklectica Media Consultants Ld, Leslie Kett, CAC [6624](#), <rainbow-medical.eu>, Denial

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 SPRLv. 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 GmbHv. Zheng Qingying, CAC [2929](#), <softage.eu>, Rejection

Security Center GmbH & Co. KG v. Zheng Qingying, CAC [2986](#), <terxon.eu>, Transfer
 The Game Group Plc v. First Internet Technology Ltd, CAC [4014](#), <game.eu>, Transfer
 Rotary International v. Strake Bohumil, CAC [4757](#), <rotary.eu>, Transfer
 CharterLine Fuhrpark-Service GmbHv. fienna.com, CAC [4949](#), <buchbinder.eu>, Transfer
 GBO Design - Engineering v. Guidance International AB, CAC [4950](#), <gbo.eu>, Transfer
 PETROM SA v. Kurt Janusch, CAC [5087](#), <petrom.eu>, Transfer
 Yakult Europe B.V. v. Mark Weakley, CAC [5156](#), <yakult.eu>, Transfer
 ANDREAS I. KANNAS & SONS LIMITED v. Zheng Qingying, CAC [5941](#), <kannas.eu>, Transfer
 OANDA Corporation v. Domain Directors Europe Ltd, CAC [5665](#), <oanda.eu>, Revocation
 Discover Financial Services (UK) Limited v. Dinerscards Ltd, CAC [5646](#), <dinerscards.eu>, Transfer
 Barclays Bank Plc v. Simon Allso, CAC [6071](#), <barclaycorporatefunding.eu>, Transfer
 Schibsted ASA, My Goland v. 2 U Import AB, CAC [07249](#), <prisjakt.eu>, Denial
 Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.eu>, Transfer
 RS FRANCHISE v. MUSTPAHA MESSAOURI, CAC [7257](#), <reparstores.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 GASPARD v. None, rony gh, CAC [6430](#), <vinci-france.eu>, Transfer
 Tiger Media, Inc. v. Jaromir Wippler, CAC [6387](#), <jucyads.eu>, Transfer

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 GmbHv. 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
 Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.eu>, Transfer
 Friedrich Miller v. Frank Heilmann, CAC [6858](#), <miller.eu>, Transfer
 JD Sports Fashion Plc v. Djamilia Bouchemoua, CAC [6843](#), <chausport.eu>, Transfer
 Sberbank of Russia, Sberbank Europe AG v. Sylux Sylwester Domitrz, CAC [6457](#), <sberbank.eu>, Revocation

Minority View: There is no reversal of the burden of proof according to the wording of the ADR Rules.

Relevant Decisions:

Smartmachine B.V.v. NameBattery.com, CAC [982](#), <smartmachine.eu>, Transfer
 LOT Polish Airlines v. Alexander Schubert, CAC [1959](#), <lot.eu>, Transfer
 OLYMPIAKOS SYNDESMOS FILATHLON PIRAEUS P.A.E v. SYNERGIS Maciej Przywara, CAC [4218](#), <olympiakos.eu>, Transfer
 Labrada Bodybuilding Nutrition v. Timo Kemerink, CAC [4396](#), <labrada.eu>, Rejection
 Mr. Didiier Mottev. Ovidio Limited, CAC [4526](#), <placement.eu> inter alia, 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 Allso, 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](#), <szakka.eu>, Transfer
 NürnbergMesse GmbH v. Marnix Brands, CAC [4320](#), <nuernbergmesse.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 Group v. OEE NETWORKS LIMITED, CAC [5578](#), <noonan.eu>, Transfer
 OANDA Corporation v. Domain Directors Europe Ltd, CAC [5665](#), <oanda.eu>, Revocation
 Jager & Polacek GmbH v. Redtube, CAC [5891](#), <redtube.eu>, Transfer
 Robert Manuel v. Wolf Konrad, CAC [7139](#), <manuel.eu>, Denial
 Schibsted ASA, My Golan 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
 Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.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 Sylwester 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. Didieer Mottev. Ovidio Limited, CAC [4526](#), <placement.eu> inter alia, Transfer
ELTRO Gesellschaft für Elektronik mbH v. Zheng Qingying, CAC [4620](#), <eltropuls.eu>, Transfer
UAB Olifeja, Giedre Dailidenaite v. MendesSoft, Marcelo Q. Varela Barraza, CAC [7226](#), <teletotobilletutikrinimas.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 [4371](#), <simtek.eu>, Transfer
Schuess 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:

Schuess 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 Limitedv. Gumshoe Research Limited, CAC [1129](#), <energylinx.eu>, Transfer
 Kemet International Limited v. Vinitia Ltd, CAC [1304](#), <kemet.eu>, Transfer
 Peter A. Rueckert v. Domain Handler, CAC [1387](#), <biomark.eu>, Rejection
 Pharma Medico UK Ltd. v. Vinitia Ltd, CAC [1412](#), <nourkrin.eu>, Transfer
 E.T Browne (UK) Limitedv. Fienna Limited, CAC [2235](#), <palmercococoabutter.eu>, Transfer
 Studienkreis GmbH v. Cervos Enterprises Ltd, CAC [3202](#), <studienkreis.eu>, Transfer
 Hans Beckhoff v. OSEO 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 [4253](#), <europart.eu>, Transfer
 Sponda Oyj v. UK Domain Developers, Ltd, CAC [4492](#), <sponda.eu>, Transfer
 Mills Brothers B.V. v. OSEO NETWORKS LIMITED, CAC [4725](#), <thesting.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 AGv. Vinitia Ltd, CAC [3149](#), <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. Vinitia Ltd, CAC [4269](#), <salomonsports.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 [5681](#), <gecredit.eu>, Transfer
 UBAVICIUS ANT. – FARAZOUMIS IOAN. O.E. (DNHOST), Mr. Antonie Francois Ubavicius v. Sakellarides Law Offices, Vali Sakellarides, CAC [6704](#), <dnhost.eu>, Transfer
 Liu.Jo S.p.A., Ms. Serena Iori v. Studio Legale SIB, Mr. Carloalberto Goivannetti, CAC [6590](#), <liuojoutlet.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 [6442](#), <swarovskischweizonlineshop.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

CONFÉDÉRATION NATIONALE DU CRÉDIT MUTUEL, Benoît WIESEL v. adam co., adam sandling, CAC [7280](#), <credit-mutuels.eu, creditmutuel-verification.eu, creditmutuels.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 KGv. Zheng Qingying, CAC [5903](#), <manako.eu>, Transfer

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

Relevant Decisions:

LEGO Juris A/Sv. Falk Ruether-Quadro Sued Ltd, CAC [3210](#), <dacta.eu>, Transfer

COMMEND Leasing GMBH v. Office2Office PLC, CAC [4192](#), <commend.eu>, Transfer

Diners Club International Ltd. v. Christel Morsink, CAC [4244](#), <dinerscard.eu>, Revocation

e-dialog KG v. Manuela Pirmandi, CAC [5031](#), <e-dialog.eu>, Transfer

Dr. Ing. h.c.F. Porsche AGv. International News u. Marketing Limited, CAC [6045](#), <porschemagazin.eu>, Transfer

Swarowski Aktiengesellschaft and D. Swarovski Kommanditgesellschaft v. Osama Abusultan, CAC [6787](#), <swarovskicrystalsale.eu>, Transfer

21. Can the Respondents failure to supply a respond be regarded as a suggestion, that he or she has no rights 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 [6886](#), <outlet-peuterey.eu>, Transfer

Mr. Leonid Bouryi v. Taisia Tomah, CAC [6795](#), <marathonbet.eu>, Revocation

Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.eu>, Transfer

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](#), <americaneagleoutfitters.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 Otomotiv 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-

dence. 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 Ltdv. 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 [7257](#), <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 AGv. 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 Abpv. EURid, CAC [1537](#), <solo.eu>, Rejection

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

Relevant Decisions:

Dansk Internet Forumv. Zhonglan, CAC [1644](#), <dk-hostmaster.eu>, Transfer
Richard Canten v. EURid, CAC [1627](#), <planetinternet.eu>, Rejection
European Social Projects Officev. 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

Emirates v. Stichting Roos Beheer, CAC [5405](#), <emirates.eu>, Revocation

Benefit Cosmetics LLC, Benefit Cosmetics Limited v. Domains Master, CAC [6295](#), <benefitcosmetics.eu>, Transfer

Television Broadcasts Limited, Chinese Channel Limited v. Michael Sing, CAC [6820](#), <tvbdo.eu>, Transfer

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. Vyent, CAC [6950](#), <flirt4free.eu>, Transfer

Swarowski Aktiengesellschaft and D. Swarovski Kommanditgesellschaft v. Osama Abusultan, CAC [6787](#), <swarovskicrystalsale.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 Sylwester Domitrz, 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 therefore 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 Sakellarides, CAC [6704](#), <dnhost.eu>, Transfer

Vanity Fair Inc, Les Dooley v. Taylor Wessing LLP, Mr. Roland Mallinson, CAC [6754](#), <vanityfairlingerie.eu>, Revocation
Swarowski Aktiengesellschaft and D. Swarowski Kommanditgesellschaft v. Osama Abusultan, CAC [6787](#), <swarowskicrystal-sale.eu>, Transfer
Mr. Leonid Bouryi v. Taisia Tomah, CAC [6795](#), <marathonbet.eu>, Revocation
JD Sports Fashion Plc v. Djamilia Bouchemoua, CAC [6843](#), <chausport.eu>, Transfer
People Per Hour Ltd, Mr Michael Luna v. Dreamscape Networks Limited, Web Master, CAC [7234](#), <PEOPLEPERHOUR.eu>, Transfer
Otokar Otomotiv ve Savunma Sanayi A.S. v. Gbenga Osoba, CAC [7202](#), <otokar.eu>, Transfer
Bank of America Corporation; Merrill Lynch International v. Oksana Lonu, CAC [6623](#), <bankofamericacorp.eu>, Transfer
SmithKline Beecham Limited and SmithKline Beecham Limited v. GSKline Limited, CAC [6341](#), <gskline.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. Przemysław 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 Domitrz, 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 Pfennigv. 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) Limitedv. Fienna Limited, CAC [2235](#), <palmercocoabutter.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 Kemerink, CAC [4396](#), <labrada.eu>, Rejection
Oy Hullut Päivät - Galna Dagar Ab v. Applebeach Ltd, CAC [4458](#), <hullutpaivat.eu> inter alia, Transfer

Aktiebolaget Sandvik Coromant v. Mikael Pirhonen, CAC [4879](#), <sandvikcoromant.eu>, Transfer

Roche Pharma AG v. Coursers UK, CAC [5014](#), <xenical.eu>, Transfer

Yakult Europe B.V. v. Mark Weakley, CAC [5156](#), <yakult.eu>, 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 İletişim Hizmetleri AS 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 Concast 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. – FARAZOUMIS IOAN. O.E. (DNHOST), Mr. Antonie Francois Ubavicius v. Sakellarides Law Offices, Vali Sakelladrides, CAC [6704](#), <dnhost.eu>, Transfer

Swarowski Aktiengesellschaft and D. Swarovski 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

TecAlliance GmbH, Jakob Wahlers v. Proxy Service Ltd., Organization, CAC [6662](#), <tecdocoem.eu>, Transfer

Symbios Solutions Ltd v. Eurekahosts, Patrick Philip, CAC [6734](#), <swing4ireland.eu>, Transfer

Amazon Europe Holding Technologies SCS v. Solomon Jack, CAC [6643](#), <amazon-it.eu>, Transfer

The University of Durham, Ms. Paulina Lubacz v. C.I.T., Amit Matalia, CAC [6710](#), <cem11plus.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

Mr. Leonid Bouryi v. Taisia Tomah, CAC [6795](#), <marathonbet.eu>, Revocation

Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.eu>, Transfer

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 Culloo, CAC [6629](#), <natwestplc.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

Mötesplatsen i Norden AB v. UAB Novabrand, Oksana Dasevskaja, CAC [6526](#), <mötesplatsen.eu>, Transfer

Smart Voucher Ltd t/a Ukash, Mr. Jamie King v. eKash International, Wendy Kessie, CAC [6458](#), <ekash.eu>, Transfer

Sberbank of Russia, Sberbank Europe AG v. Sylux Sylwester Domitrz, CAC [6457](#), <sberbank.eu>, Revocation

Deutsche Lufthansa AG v. Ronald Peeters, CAC [6425](#), <lufthansa.eu>, TransferZalando GmbH, Florian Linnardi v. Mickael LAGIER, CAC [6374](#), <sarenzalando.eu>, Revocation

BravoSolution S.p.A., Christopher G. Kuhn v. Steve Bennett, CAC [6369](#), <bravosolution.eu>, Transfer

Cash Converters Pty Ltd; Cash Converters (UK) Limited v. Xedoc Holdings, SA, Admin Domain, CAC [6346](#), <cashconverters.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

Yahoo! Inc., Yahoo! UK Limited v. Toma Cristian, CAC [6281](#), <yahooscan.eu>, Transfer
WARGAMING.NET LLP, Maître Pierre Miriel v. Irina Zapolsky, CAC [6252](#), <worldofwarplanes.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
CONFÉDÉRATION NATIONALE DU CRÉDIT MUTUEL, Benoît WIESEL v. adam co., adam sandling, CAC [7280](#), <credit-mutuels.eu, creditmutuel-verification.eu, creditmutuels.eu>, Transfer

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
Wild East Travels ApS v. Private Individual, Neil Smith, CAC [7237](#), <praguepissup.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 [219](#), <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 [5208](#), <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. Przemysław 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 [2235](#), <palmercocoabutter.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.Kapuscinska, 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](#), <benefitcosmetics.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 relevant 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 therefore 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 unregistered 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 ANT. – FARAZOUMIS IOAN. O.E. (DNHOST), Mr. Antonie Francois Ubavicius v. Sakellarides Law Offices, Vali Sakellarides, CAC [6704](#), <dnhost.eu>, Transfer

MAPFRE FAMILIAR, COMPANIA DE SEGUROS Y RASEGUROS, S.A. v. L. Garcia LLC, Luis Garcia, CAC [6856](#), <mapfre-es.eu>, Transfer
 Peuterey Group S.p.A. v. Rivano Leenen, CAC [6886](#), <outlet-peuterey.eu>, Transfer
 Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.eu>, Transfer
 Otokar Otomotiv ve Savunma Sanayi A.S. v. Gbenga Osoba, CAC [7202](#), <otokar.eu>, Transfer
 Nextbit, Federico Pagani v. M Jank, CAC [6800](#), <nextbit.eu>, Transfer
 Heinrich Leifeld GmbH, Herr Heinrich Werner Leifeld v. Yellow Network Limited, IT Admin, CAC [6701](#), <leifeld.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.

Relevant Decisions:

M2 Marketing A/S v. EURid, CAC [2925](#), <m2.eu>, Denial
 Seghorn Inkasso GmbH v. EURid, CAC [3032](#), <seghorn.eu>, Denial
 Witzmann GmbH v. Markus Jank, CAC [5388](#), <witzmann.eu>, Transfer
 eprimo GmbH v. Zheng Qingying, Case No. [5384](#), <eprimo.eu>, Transfer
 Alphonse Leduc Editions Musicales SARL v. Thompson Edition Inc., CAC [5419](#), <alphonseleduc.eu>, Transfer
 Benefit Cosmetics LLC, Benefit Cosmetics Limited v. Domains Master, CAC [6295](#), <benefitcosmetics.eu>, Transfer
 IM PRODUCTION, Sophie JACQUELINE v. HEINRICH GROOTHUIZEN, CAC [06877](#), <isabelmarant-outlet.eu>, Transfer
 Wild East Travels ApS v. Private Individual, Neil Smith, CAC [7237](#), <praguepissup.eu>, Denial
 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 [6734](#), <swing4ireland.eu>, Transfer
 Amazon Europe Holding Technologies SCS v. Solomon Jack, CAC [6643](#), <amazon-it.eu>, Transfer
 People Per Hour Ltd, Mr Michael Luna v. Dreamscape Networks Limited, Web Master, CAC [7234](#), <peopleperhour.eu>, Transfer
 Benefit Cosmetics LLC, Christophe LeBoterff v. Domain Master, CAC [6295](#), <benefitcosmetics.eu>, Transfer

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.

Relevant Decisions:

Biuro Projektowania Systemów Cyfrowych SA v. EURid, CAC [2494](#), <bpsc.eu>, Denial
 TSE Systems GmbH v. Fienna Ltd, CAC [1328](#), <tse-systems.eu>, Transfer
 Giebel Rechtsbesorgungs-GmbH v. EURid, CAC [3285](#), <giebel.eu>, Denial
 Biuro Projektowania Systemów Cyfrowych SA v. EURid, CAC [2494](#), <bpsc.eu>, Denial
 Swarovski Aktiengesellschaft and D. Swarovski Kommanditgesellschaft v. Osama Abusultan, CAC [6787](#), <swarowskicrystalsale.eu>, Transfer
 MAPFRE FAMILIAR, COMPANIA DE SEGUROS Y RASEGUROS, S.A. v. L. Garcia LLC, Luis Garcia, CAC [6856](#), <mapfre-es.eu>, Transfer
 Nextbit, Federico Pagani v. M Jank, CAC [6800](#), <nextbit.eu>, Transfer
 Heinrich Leifeld GmbH, Herr Heinrich Werner Leifeld v. Yellow Network Limited, IT Admin, CAC [6701](#), <leifeld.eu>, Transfer

Rainbow Medical Engineering Ltd, Professor Luigi Martini v. Eklectica Media Consultants Ld, Leslie Kett, CAC [6624](#), <rainbow-medical.eu>, Denial

Swarovski Aktiengesellschaft, Mr Rudolf Haugg v. Marcel Hertz, CAC [6442](#), <swarowskischweizonlineshop.eu>, Transfer

SmithKline Beecham Limited and SmithKline Beecham Limited v. GSKline Limited, CAC [6341](#), <gskline.eu>, Transfer

Benefit Cosmetics LLC, Christophe LeBoterff v. Domain Master, CAC [6295](#), <benefitcosmetics.eu>, Transfer

ECCO Sko A/S, Julie Marie Niebuhr Aagaard v. qingniang zhuang, CAC [6247](#), <eccosko.eu>, Transfer

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>, Annulled

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 therefore 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.

Relevant Decision:

The BOC Group plc v. EURid, CAC [139](#), <boc.eu>, Denial

Union internationale des transports routiers v. EURid, CAC [187](#), <tir.eu>, Denial

Stockholms Stad v. Traffic Web Holding BV, CAC [386](#), <stockholm.eu>, Denial

Gemeinde Völs am Schlern / Comune di Fiè allo Sciliar v. EURid, CAC [1136](#), <fie.eu>, Denial

Département des Hauts de Seine v. Tempus Enterprises Ltd., CAC [4204](#), <92.eu>, Denial

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 was is 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 [475](#), <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. Goallover 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. Vinitisia, 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. Vinitisia 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 findings 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.

Relevant Decisions:

AuntMinnie.com v. Jeffrey Leichter, CAC [1580](#), <auntminnie.eu>, Revocation
 Republik Turkije v. Traffic Web Holding BV, CAC [4739](#), <turkey.eu>, Revocation
 PICMG Europe v. Barbara Baldwin, CAC [4478](#), <picmg.eu>, Denial

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.

Relevant Decision:

Wydawnictwo Jezierski v. Łukasz Pawlak, CAC [4996](#), <oferta.eu>, Denial

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](#), <peutereyoutletshop.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

Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.eu>, Transfer

JD Sports Fashion Plc v. Djamilia Bouchemoua, CAC [6843](#), <chausport.eu>, Transfer

VKR 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 Dailidenaite v. MendesSoft, Marcelo Q. Varela Barraza, CAC [7226](#), <telelotobilletutikrinimas.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

Nextbit, Federico Pagani 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](#), <mötesplatsen.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](#), <swarovskischweizonlineshop.eu>, Transfer

Vinci, Thérèse GASPARD 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](#), <natwestbnkplc.eu>, Transfer

Joachim Oldendörp v. Miguel Rebelo Silva, CAC [6328](#), <eyedoc.eu>, Denial
 Retail Royalty Company, American Eagle NL Hold Co B.V. v. SUN KING, CAC [6303](#), <americaneagleoutfitters.eu>, Revocation
 CONFÉDÉRATION NATIONALE DU CRÉDIT MUTUEL, Benoît WIESEL v. adam co., adam sandling, CAC [7280](#), <credit-mutuels.eu, creditmutuel-verification.eu, creditmutuels.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
 Gaitaler 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](#), <ambienr.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
 Compagnie Générale des Etablissements Michelin v. Premium Anvelope Service-roti S.R.L., Budisteanu Serban, CAC [6970](#),

<anvelope-michelin.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

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 SYNDESMOS FILATHLON 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. Gailtaler Computerklinik, CAC [3207](#), <allianz-online.eu>, Transfer

Bayerische Motoren Werke AG (BMW AG) v. Jiri Svec, CAC [7151](#), <bmw-navigation.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 Groothuizen, CAC [6877](#), <isabelmarant-outlet.eu>, Transfer

Swarowski Aktiengesellschaft and D. Swarovski Kommanditgesellschaft v. Osama Abusultan, CAC [6787](#), <swarovskicrystalsale.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

TecAlliance GmbH, Jakob Wahlers v. Proxy Service Ltd., Organization, CAC [6662](#), <tecdocoem.eu>, Transfer

The University of Durham, Ms. Paulina Lubacz v. C.I.T., Amit Matalia, CAC [6710](#), <cem11plus.eu>, Transfer

Liu.Jo S.p.A., Ms. Serena Iori v. Studio Legale SIB, Mr. Carloalberto Goivannetti, CAC [6590](#), <liujoooutlet.eu>, Transfer

Peuterey Group S.p.A. v. Rivano Leenen, CAC [6886](#), <outlet-peuterey.eu>, Transfer

RS FRANCHISE v. MUSTPAHA MESSAOURI, CAC [7257](#), <reparstores.eu>, Transfer

Tinder, Incorporated v. Margret Eagle, CAC [7240](#), <gotinder.eu>, Revocation

DivX, LLC, San Diego Calif., US, Daniel Schatz and Boehmert & Boehmert Partnerschaftsgesellschaft mbH, Dr. Andreas Dustmann v. Jan Schwarz, CAC [6813](#), <divxstage.eu>, Transfer

Inter IKEA Systems B.V., Martin Broden v. PM Meulenijs, PM Meulenijs, CAC [6640](#), <ikeawilrijk.eu, ikeaanderlecht.eu, ikeazaventem.eu >, Transfer

National Westminster Bank Plc., Ms. Suzanne Wright v. Andrew Culloo, CAC [6629](#), <natwestplc.eu>, Transfer

Bank of America Corporation; Merrill Lynch International v. Oksana Lonu, CAC [6623](#), <bankofamericacorp.eu>, Transfer

Swarovski Aktiengesellschaft, Mr Rudolf Haugg v. Marcel Hertz, CAC [6607](#), <swarowskiuksale.eu>, Transfer

Jack Wolfskin Ausrüstung für Draussen GmbH & Co. KG, Severin Canisius v. Wolfskin apparels co. ltd, Maurizio Caldi, CAC [6585](#), <jack-wolfskinsjacket.eu>, Transfer

Swarovski Aktiengesellschaft, Mr Rudolf Haugg v. Marcel – Hertz, CAC [6544](#), <swarovskicrystaluk.eu>, Transfer

TÜV Markenverbund e.V., Andreas Kamholz v. Navilive Private Limited, Hamid Seyed Ali Elahi, CAC [6516](#), <tuvinternational.eu>, Transfer

Swarovski Aktiengesellschaft, Mr Rudolf Haugg v. Marcel Hertz, CAC [6442](#), <swarovskischweizonlineshop.eu>, Transfer

Vinci, Thérèse GASPARD v. None, rony gh, CAC [6430](#), <vinci-france.eu>, Transfer

National Westminster Bank plc, Ms Suzanne Wright v. Gladys Oliyns, CAC [6339](#), <natwestbnkplc.eu>, Transfer

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

CONFÉDÉRATION NATIONALE DU CRÉDIT MUTUEL, Benoît WIESEL v. adam co., adam sandling, CAC [7280](#), <credit-mutuels.eu, creditmutuel-verification.eu, creditmutuels.eu>, Transfer

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](#), <crownpiazza.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](#), <palmercocoabutter.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

Nicolas De Borrekens 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 [4261](#), <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
 Vanify 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 [4641](#), <casualmale.eu>, Transfer

ALIMA značková 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](#), <muller.eu>, Transfer

Vanguard Trademark Holdings USA LLC v. Harness, Dickey & Pierce PLC, David R Haarz, CAC [6737](#), <alamocostarica.eu>, Revocation
 Symbios Solutions Ltd v. Eurekahosts, Patrick Philip, CAC [6734](#), <swing4ireland.eu>, Transfer
 Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.eu>, Transfer
 UAB Olifeja, Giedre Dailidenaite v. MendesSoft, Marcelo Q. Varela Barraza, CAC [7226](#), <telelotobilletutikrinimas.eu>, Denial
 LEGO Juris A/S, Ms. Helena Myrin v. Blacklemon S.r.l., Nicola Bellotti, CAC [6757](#), <legominifigures.eu>, Transfer
 WGM Services Ltd. V. Private, Stephan Hoefinger, CAC [6616](#), <eztrader.eu>, Denial
 Swarovski Aktiengesellschaft, Mr Rudolf Haugg v. Marcel Hertz, CAC [6442](#), <swarovskischweizonlineshop.eu>, Transfer
 Joachim Oldendörp v. Miguel Rebelo Silva, CAC [6328](#), <eyedoc.eu>, Denial
 Yahoo! Inc., Yahoo! UK Limited v. Toma Cristian, CAC [6281](#), <yahooscan.eu>, Transfer
 WARGAMING.NET LLP, Maître Pierre Miriel v. Irina Zapolsky, CAC [6252](#), <worldofwarplanes.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

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.

Relevant Decisions:

E.T Browne (UK) Ltd. vs. Fienna Ltd., CAC [2235](#), <palmerescocoabutter.eu>, Transfer

Fundus Hotelentwicklungs- und verwaltungsgmbH vs. Rene Herberg, CAC [2733](#), <hotel-adlon.eu>, Transfer

Mobitel EAD vs. SdrujenieAsotsiatsiya na potrebitelite na telekommunikatsionniinternetuslugi, CAC [5973](#), <mtelbg.eu>, Transfer

Manako Ltd. & Co KG vs. ZhengQingying, CAC [5903](#), <manako.eu>, Transfer

EuroFIR AISBL, Paul Finglas v. Sam Farrell, CAC [7188](#), <eurofir.eu>, Transfer

UBAVICIUS ANT. – FARAZOUMIS IOAN. UAB Olifeja, Giedre Dailidenaite v. MendesSoft, Marcelo Q. Varela Barraza, CAC [7226](#), <te-lelobilietutikrinimas.eu>, Denial

Grape Technology Group, Inc. and kgbdeals (UK) Limited, Desiree Fields. Domain Directors Europe Ltd, Domain Administrator, CAC [6506](#), <kgbdeals.eu>, Transfer

National Westminster Bank plc, Ms Suzanne Wright v. Gladys Oliyns, CAC [6339](#), <natwestbnkplc.eu>, Transfer

Benefit Cosmetics LLC, Christophe LeBoterff v. Domain Master, CAC [6295](#), <benefitcosmetics.eu>, Transfer

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.

Relevant Decisions:

TecnoBat di Battipaglia Ciro David v. UAB Game Insight, CAC [7171](#), <game-insight.eu>, Transfer

Smart Voucher Ltd t/a Ukash, Mr. Jamie King v. eKash International, Wendy Kessie, CAC [6458](#), <ekash.eu>, Transfer

Retail Royalty Company, American Eagle NL Hold Co B.V. v. SUN KING, CAC [6303](#), <americaneagleoutfitters.eu>, Revocation

O.E. (DNHOST), Mr. Antonie Francois Ubavicius v. Sakellarides Law Offices, Vali Sakelladrides, CAC 6704, <dnhost.eu>, Transfer

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

Relevant Decisions:

Vanity Fair Inc, Les Dooley v. Taylor Wessing LLP, Mr. Roland Mallinson, CAC [6754](#), <vanityfairlingerie.eu>, Revocation

JD Sports Fashion Plc, Gareth Price v. Erika Gabler, CAC [7224](#), <chausports.eu>, Transfer

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.

Relevant Decisions:

Mou Limited, Shelley Tichbourne v. Franziska Hirsch, CAC [7201](#), <mouboots.eu>, Transfer

Television Broadcasts Limited, Chinese Channel Limited v. Michael Sing, CAC [6820](#), <tvbdo.eu>, Transfer

Swarovski Aktiengesellschaft, Mr Rudolf Haugg v. Marcel Hertz, CAC [6442](#), <swarovskischweizonlineshop.eu>, Transfer

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. MadelenFrijhjem, CAC [6020](#), <vargardahus.eu>, Transfer
Schiebs 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 <jteeria.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

Ovidio Limited vs. Alexis Coussement Lumieres, CAC [3949](#), <ACL>, Transfer

Vanguard Trademark Holdings USA LLC v. Harness, Dickey & Pierce PLC, David R Haarz, CAC [6737](#), <alamocostarica.eu>, Revocation

Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.eu>, Transfer

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](#), <crownpalaza.eu>, Transfer

Benefit Cosmetics LLC, Christophe LeBoterff v. Domain Master, CAC [6295](#), <benefitcosmetics.eu>, Transfer

No Panels have yet been discussing landing pages.

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 CoussementLumières vs. Ovidio Ltd., CAC [3949](#) <acl.eu>, Transfer

Enterprise 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 Respondents 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.

Relevant Decision:

NEW SPEECH Dawid Tomaszewski v. Porodnia logopedyczna Nowa Mowa s.c. M.Kapuscinska, K.Wanke, CAC [7186](#), <nowamowa.eu>, Transfer

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](#), <iprospect.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:

Jäger & 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 [4882](#), <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 Sylwester 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. Djamilia Bouchemoua, 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 [5482](#), <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. Goallover 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 Respondents 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

Schaeffler KG v. Cervos Enterprises LTD, CAC [3557](#), <fag.eu>, Transfer

Kocian Solc Balastik v. Andreas Constantinou, CAC [1584](#), <ksb.eu>, Transfer

Creative Supportgroup BV v. DD GmbH, CAC [2048](#), <escort-date.eu>, Denial

Memorex Products Europe Limited v. Goallvover Limited, CAC [1196](#), <memorex.eu>, Transfer

Sligro Food Group Nederland B.V. v. W. Schuurman, CAC [5396](#), <sligro.eu>, Transfer

Wildbore & Gibbons v. Giedrius Mazurka, CAC [2695](#), <bunac.eu>, Transfer

HORMEL FOODS CORPORATION v. Markus Koettl, CAC [568](#), <spam.eu>, Transfer

OLYMPIAKOS SYNDESMOS FILATHLON PIRAEUS P.A.E. v. SYNERGIS Maciej Przywara, CAC [4218](#), <olympiakos.eu>, Transfer

AVAST Software a.s. v. Avira GmbH, CAC [5739](#), <avast.eu>, Transfer

Otokar Otomotiv ve Savunma Sanayi A.S. v. Gbenga Osoba, CAC [7202](#), <otokar.eu>, Transfer

CONFÉDÉRATION NATIONALE DU CRÉDIT MUTUEL, Benoît WIESEL v. Isabelle SCHMITT, CAC [7211](#), <lcreditmutuel.eu>, Transfer

LEGO Juris A/S, Ms. Helena Myrin v. Blacklemon S.r.l., Nicola Bellotti, CAC [6757](#), <legominifigures.eu>, Transfer

TÜV Markenverbund e.V., Andreas Kammholz v. Navilive Private Limited, Hamid Seyed Ali Elahi, CAC [6516](#), <tuvinternational.eu>, Transfer

Tiger Media, Inc. v. Jaromir Wippler, CAC [6387](#), <juicyads.eu>, Transfer

Zalando GmbH, Florian Linnardi v. Mickael LAGIER, CAC [6374](#), <sarenzalando.eu>, Revocation

Retail Royalty Company, American Eagle NL Hold Co B.V. v. SUN KING, CAC [6303](#), <americaneagleoutfitters.eu>, Revocation

Yahoo! Inc., Yahoo! UK Limited v. Toma Cristian, CAC [6281](#), <yahooscan.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

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. Vinitia, CAC [4925](#), <nyu.eu>, Transfer

Carrier SCS v. Kurt Janusch, CAC [1901](#), <carrier.eu>, Transfer

Société Air France v. Lehigh Basin, CAC [4318](#), <e-airfrance.eu>, Transfer

Sony Ericsson Mobile Communications AB v. B-D-S, CAC [4423](#), <sony-ericsson.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 Dienstverlening, 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. Pillerbi OY, CAC [5293](#), <sampolife.eu>, Transfer

Red Hat GmbH v. erase, CAC [4749](#), <jboss.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

CONSEJERÍA DE SANIDAD DE LA COMUNIDAD DE MADRID v. DOMAIN HANDLER, CAC [5299](#), <saludmadrid.eu>, Transfer
 City Inn Limited v. World Online Endeavours, CAC [3396](#), <citycafe.eu>, Denial
 Turkcell İletişim Hizmetleri AS v. dilek TANIK, CAC [5837](#), <turkcell.eu>, Transfer
 SALOMON S.A. v. Vinitia Ltd., CAC [4269](#), <salomonsports.eu>, Transfer
 Memorex Products Europe Limited v. Goallover Limited, CAC [1196](#), <memorex.eu>, Transfer
 LEGUIDE.COM SA v. Zheng Qingying, CAC [2651](#), <antag.eu>, Transfer
 Société Air France v. ibiz hosting, CAC [4645](#), <airfranceonline.eu>, Transfer
 Fontanaarte S.p.A. v. Hoogspoor B.V., CAC [4850](#), <fontanaarte.eu>, Transfer
 Alterian Technology Limited v. Paul McGowan, CAC [4296](#), <alterian.eu>, Transfer
 Labco SAS v. Qingying Zheng, CAC 4410 4711, [4880](#), <labco.eu>, Transfer
 All Star C.V. and Converse Inc. v. Goallover Limited, Caller Robin, CAC [7238](#), <converse.eu>, Transfer
 Ms heidi tandy, Esq. v. smartling, Remigiusz Kokot, CAC [7209](#), <smartling.eu>, Revocation
 Inter IKEA Systems B.V., Martin Broden v. PM Meulenijzer, PM Meulenijzer, CAC [6640](#), <ikeawilrijk.eu, ikeaanerlecht.eu, ikeazaventem.eu>, Transfer
 Grape Technology Group, Inc. and kgbdeals (UK) Limited, Desiree Fields. Domain Directors Europe Ltd, Domain Administrator, CAC [6506](#), <kgbdeals.eu>, Transfer
 JD Sports Fashion Plc v. Djamilia Bouchemoua, CAC [6843](#), <chausport.eu>, Transfer
 Zalando GmbH, Florian Linnardi v. Mickael LAGIER, CAC [6374](#), <sarenzalando.eu>, Revocation

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](#), <palmercocoabutter.eu>, Transfer
 AOL UK v. Name Battery Limited, CAC [4039](#), <aolmail.eu>, Transfer
 ISOBAR COMMUNICATIONS B.V. v. Y-6 Ltd., CAC [4127](#), <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. Vinitia, 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. Vinitia 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](#), <palmerescocoabutter.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 Sylwester Domitrz, CAC [6457](#), <sberbank.eu>, Revocation

Netto Marken-Discount AG & Co. KG, Netto Marken-Discount AG & Co. KG v. FLIESENservice-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

tekom Gesellschaft für technische Kommunikation e. V. v. Kausani Enterprises Ltd., CAC [4735](#), <tekom.eu>, Transfer
 J.S. Staedtler GmbH & Co. KG v. David Fishman, CAC [2727](#), <staedtler.eu>, Transfer
 Nextbit, Federico Pagani v. M Jank, CAC [6800](#), <nextbit.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](#), <tárhely.eu>, Transfer
 Casual Male RBT LLC dba Rochester Big & Tall v. Rossie Ruben, CAC [4641](#), <casualmale.eu>, Transfer
 Noonan Services Group v. OEEO 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 Respondents 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

Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.eu>, Transfer

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.

Relevant Decisions:

Inbokss SIA v. Worldwide Brands BVBA, CAC [5892](#), <inbox.eu>, Transfer

SCOTCH & SODA B.V. v. S&S Piotr Szlegiel, CAC [5529](#), <soda-brand.eu>, Transfer

MONTES DE PIEDAD Y CAJA DE AHORROS DE RONDA v. interdominios, CAC [5527](#), <unicarjasur.eu>, Transfer

CENTRAL UNION OF MUNICIPALITIES AND COMMUNITIES OF GREECE v. ZHENG QINGYING, CAC [5282](#), <kedke.eu>, Denial

Levantur S.A. v. Kamil Grabarczyk, CAC [5065](#), <bahiaprincipe.eu>, Transfer

General Electric Company v. SNNS Ltd., CAC [5009](#), <gesolar.eu>, Revocation

Ericpol Telecom sp. z o.o. v. Zheng Qingying, CAC [2429](#), <ericpol.eu>, Transfer

Alexis Coussement Lumières v. Ovidio Limited, CAC [3949](#), <acl.eu>, Transfer

OSRAM GmbH v. Zheng Qingying, CAC [4309](#), <osram-os.eu>, Transfer

ARBONNE INTERNATIONAL v. WorldOnlineEndeavours.com, CAC [4895](#), <carbonne.eu>, Revocation

August Storck KG v. World Online Endeavours Ltd., CAC [4336](#), <nimm2-lachgummi.eu>, Transfer

Point of Sports GmbH v. Vinitisia Ltd., CAC [4881](#), <jetpilot.eu>, Transfer

SALOMON S.A. v. Vinitisia Ltd., CAC [4269](#), <salomonsports.eu>, Transfer

Euro Suisse International Ltd v. Vinitisia Ltd., CAC [3024](#), <binatone.eu>, Denial

Edscha AG v. Vinitisia Ltd., CAC [3149](#), <edscha.eu>, Transfer

Pharma Medico UK Ltd. v. Vinitisia Ltd., CAC [1412](#), <nourkrin.eu>, Transfer

Kemet International Limited v. Vinitisia Ltd., CAC [1304](#), <kemet.eu>, Transfer

Salu Inc v. Aphrodite Ventures Limited, CAC [4440](#), <skinstore.eu>, Revocation

E.T Browne (UK) Limited v. Fienna Limited, CAC [2235](#), <palmerscocoabutter.eu>, Transfer

- 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.

Relevant Decisions:

HMA Interdesign v. De Stichting Eerlijk Delen, CAC [1795](#), <desede.eu>, Rejection

Aleid Belksma-Koopmans v. Traffic Web Holding BV, CAC [306](#), <mediation.eu>, Denial

Société Air France v. ibiz hosting, CAC [4645](#), <airfranceonline.eu>, Transfer

- 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.

Relevant Decisions:

TARKETT SAS v. REZEPT LTD., CAC [4052](#), <tarkett-commercial.eu>, Transfer

SEVEN FOR ALL MANKIND LLC v. Riazul Quadir, CAC [2300](#), <7forallmankind.eu>; Revocation

BORMIOLI ROCCOE FIGLIO SPA v. Inames UK, CAC [4049](#), <bormiolirocco.eu>, Transfer

Labco SAS v. Qingying Zheng, CAC [4880](#), <labco.eu>, Transfer

New York University in France v. Vinitisia Ltd, CAC [4925](#), <nyu.eu>, Transfer

Zott GmbH & Co. KG v. Victor Somov, CAC [5468](#), <zott-sale.eu>, Transfer

Noonan Services Group v. OEEO NETWORKS LIMITED, CAC [5578](#), <noonan.eu>, Transfer

Ape & Partners S.p.A., PJS International S.A. v. Jan Krdzic, CAC [6840](#), <parajumpers.eu>, Transfer

VKR Holding A/S, Lisbeth Ferdinand-Petersen v. Andrew Hooper, CAC [7278](#), <veluxglazing.eu>, Transfer

Inter IKEA Systems B.V., Martin Broden v. PM Meulenijzer, PM Meulenijzer, CAC [6640](#), <ikeawilrijk.eu, ikeaaanderlecht.eu, ikeazaventem.eu>, Transfer

Bank of America Corporation; Merrill Lynch International v. Oksana Lonu, CAC [6623](#), <bankofamericacorp.eu>, Transfer

BravoSolution S.p.A., Christopher G. Kuhn v. Steve Bennett, CAC [6369](#), <bravosolution.eu>, Transfer

- 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 [5247](#), <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 [1959](#), <lot.eu>, Transfer

SALOMON S.A. v. Vinitisia Ltd., CAC [4269](#), <salomonsports.eu>, Transfer

Reale Mutua Assicurazioni v. Zheng Qingying, CAC [4517](#), <realemutua.eu>, Transfer

New York University in France v. Vinitisia Ltd, CAC [4925](#), <nyu.eu>, Transfer

Fundació 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 Koettl, CAC [568](#), <spam.eu>, Transfer