

Per ordinary mail

CEPANI Secretariat
Ms. Audrey Goessens
rue des Sols 8
1000 Brussels

FROM **Yves Van Couter**
REFERENCE **14020839**
DATE **25 June 2013**
CONCERNING **Domain name procedure n° 44303/gvt.be**

Dear Ms Goessens,

I refer to the captioned matter and to my e-mail of today, by which I sent you an electronic copy of my decision in the abovementioned case.

Pursuant to Article 16 of the CEPANI Rules for Domain Name Dispute Resolution, please find enclosed three original signed copies of my decision as well.

Wishing you good receipt hereof, I remain,

Yours sincerely,

Yves Van Couter





BELGIAN CENTRE FOR ARBITRATION AND MEDIATION

DECISION OF THE THIRD-PARTY DECIDER

Guy Van Tornhout NV / MADEurope.com

Case no. 44303 / gvt.be

1. The Parties

1.1. Complainant: Guy Van Tornhout NV;
with registered office at 9000 Ghent,
Kortrijksesteenweg 1098;
listed in the Belgian company register under number
0451.498.673.

Represented by:

Mr. Guy VAN TORNHOUT, managing director and
legal representative;
with office at 9000 Ghent, Kortrijksesteenweg 1098.

Hereinafter referred to as the "Complainant".

1.2. Domain name holder: MADEurope.com EBVBA;
with registered office at 1050 Brussels, Avenue Franklin
Rooseveltlaan 108;
listed in the Belgian company register under number
0477.689.168.

Represented by:

Mr. Alexander WHITE, manager and legal
representative;
With office at 1050 Brussels, Rue de l'été 74.

Hereinafter referred to as the "Respondent".

2. Domain name

Domain name: **"gvt.be"**
Registered on: March 30, 2001

Hereafter referred to as "the Domain Name".

3. Procedural history

On April 24, 2013, Complainant filed a complaint with the Belgian Centre for Arbitration and Mediation (hereinafter referred to as "CEPINA") concerning the Domain Name. No exhibits were filed in support of the complaint.

On May 6, 2013, CEPINA informed Respondent of the complaint. Following this notification, and in accordance with the CEPINA Rules for Domain Name Dispute Resolution, Complainant and Respondent tried to reach an amicable settlement. On May 24, 2013 it became clear that the dispute could not be settled amicably.

On June 3, 2013 CEPINA invited the undersigned to settle the dispute regarding the Domain Name as Third-party decider. On June 4, 2013, the Third-party decider sent the statement of independence to CEPINA. By e-mail dated June 5, 2013, CEPINA informed both parties of the appointment of the Third-party decider.

CEPINA stated in this e-mail that, pursuant to Articles 13 and 16 of the CEPINA Rules for Domain Name Dispute Resolution, the debates would be closed 7 days from the date of the letter, i.e. by June 12, 2013 and that the Third-party decider had to inform the CEPINA secretariat of his decision by June 26, 2013 at the latest.

On June 12, 2013 Respondent forwarded its response to the complaint to the CEPINA secretariat, accompanied by its supporting documents. Because for technical reasons some of the supporting documents (a collection of e-mails) could not be delivered by e-mail, the Respondent submitted them with the CEPINA secretariat on a usb-stick and the CEPINA secretariat forwarded the given usb-stick to the Third-party decider by registered mail.

The Third-party decider did not receive any request from Complainant for an additional extension of the deadline in order to submit retort pursuant to Article 13 of the CEPINA Rules for Domain Name Dispute Resolution. The Third-party decider therefore did not take into account any information received after the date of closing of the debates (i.e. June 12, 2013). The Third-party decider thus issues his decision based on the complaint, the response, the evidence that was submitted in due time, the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, and the CEPINA Rules for Domain Name Dispute Resolution.

4. Factual background of the case

Complainant registered its company in 1993 under the name "Guy Van Tornhout". From publicly available information it appears that Complainant operates two telecom shops under the designations "Guy Van Tornhout" and "Group-VT". In that respect, Complainant is the owner of the domain names "guyvantornhout.be", "group-vt.be" and "nvgvt.be".

Respondent describes itself as a company specialised in marketing and communication in the real estate sector and the development of real estate projects.

According to Respondent's articles of association, Respondent may carry out various activities, such as: market analyses; any type of service, advice and training concerning trademark or design strategy; all kinds of PR, marketing and publicity services; organising all kinds of cultural, touristic or sports events; buying, selling, importing and exporting all kinds of leisure clothing and equipment; buying and

selling cars and other vehicles; and buying, selling, renting, and the renovating all kinds of buildings.

On March 30, 2001 Respondent registered the Domain Name "gvt.be".

In February 2006, Complainant allegedly contacted Respondent in order to negotiate a possible transfer of the Domain Name. Respondent declined the offer. On April 24, 2013, seven years later, and 12 years after the registration of the Domain Name, the complaint was filed with CEPINA.

Respondent contends that the Domain Name was registered for the development of fitness and health club installations in real estate projects. The Domain Name "gvt.be" resolves to the following web page, which indeed appears to be the home page of an organization promoting "German Volume Training".



However, Respondent has not made any apparent use of the Domain Name since 2001 until the day of appointment of the undersigned in June 2013. It was therefore only after Respondent became aware of the complaint that they put any content on the website. This website thus seems to have been created solely for the purposes of influencing the Third-party decider's decision.

The following elements support the suspicion of the Third-party decider that this website was artificially created in the frame of this CEPINA procedure:

- the link to the "GVT exercise cages" leads to the website of a Polish fitness centre with no proven connection with Respondent;
- the link to GVT's fitness experts leads to the website "bodybuilding.com", owned by a US company that sells bodybuilding products (with no proven connection with Respondent); and
- the link concerning the concept of 'private gyms' leads to a Google Streetview image of Respondent's address.

Moreover, this is the third CEPINA domain name dispute in which Respondent's activities have been questioned. In the "fa.be" case from 2002 (case n° 4014 – "Henkel / MADEurope.com"), the Third-party decider held that Respondent did not have any right or legitimate interest in the contested domain name. There was however enough doubt to prevent the Third-party decider from presuming that Respondent registered or was using the domain name in bad faith. The complaint was therefore rejected. In the second case, "sputnik.be" (case n° 44260 – "Sputnik TV / Alexander White") from 2012, the Third-party decider held that Respondent was

using the domain name concerned for 'domain name parking' purposes only and that it did not have any right or legitimate interest in this domain name. The Third-party decider held that also the 'bad faith' criterion was met and ordered the transfer of the domain name.

Although the facts of this case are different from those of the two previous cases, they might reveal a certain pattern of conduct, i.e. accumulating domain names for which Respondent has no legitimate interest or rights, in view of reselling these domain names (the practice of 'domain name grabbing').

5. Position of the parties

5.1. Position of Complainant

Complainant argues that Respondent registered the Domain Name which is identical to its trademark "GVT". It also claims having tried to contact Respondent repeatedly, but these attempts failed because Respondent did not answer its calls and its e-mail could not be delivered.

Complainant requests the Third-party decider to order the transfer of the Domain Name. However, Complainant does not submit any further arguments to support its claim, nor does it file any evidence in support of its claim.

5.2. Position of Respondent

In summary, Respondent argues that:

- it registered and is using the Domain Name in good faith and for legitimate business activities;
- Complainant does not bear the trade name corresponding to the Domain Name or own the corresponding trademark, it does not use "GVT" in any way;
- there is no confusion between the business activities of both parties and Respondent does not interfere with Complainant's business activities;
- Complainant did nothing substantial to validate its claim for 12 years (2001-2013), although it was aware of the Domain Name at least since 2006;
- Complainant has in no way reasonably tried to communicate with Respondent and does not provide any material documents to support its claim; and
- Respondent always acted immediately and cooperatively when it was contacted by Complainant and was even prepared to undertake an amicable settlement of the case, which Complainant declined.

6. Discussion and findings

Pursuant to Article 16.1 of the CEPINA Rules for Domain Name Dispute Resolution, the Third-party decider shall rule on domain name disputes with due regard for the Policy and the CEPINA Rules for Domain Name Dispute Resolution.

Pursuant to Article 10, b (1) of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, the Complainant must prove the following:

- *the Licensee's domain name is identical or confusingly similar to a trademark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and*
- *the Licensee has no rights or legitimate interests in the domain name; and*

- *the Licensee's domain name has been registered or is being used in bad faith.*"

6.1. Identical or confusingly similar domain name

The Domain Name is "gvt.be".

Complainant operates under the trade names "Guy Van Tornhout" and "Group-VT". Complainant does not provide any evidence however that it is also active under the trade name "GVT". Contrary to what Complainant alleges ("*GVT is the trademark of Guy Van Tornhout*"), a search in the trademark registry showed that Complainant did not register "GVT" as a trademark.

Moreover, unlike in case n°44249 – "Tom De Ridder / Friso Haringsma", Complainant has not put forward any evidence that it has been commonly using the initials "GVT" in the course of trade during a certain period of time.

Under these circumstances, the Third-party decider finds that the Domain Name is not identical or confusingly similar to a trademark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which Complainant has rights. The first condition of Article 10, b (1) is therefore not proven.

6.2. No rights or legitimate interests

Pursuant to Article 10 b) 3 of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, Respondent's rights or legitimate interest to the Domain Name can be proven by certain circumstances, of which the given Article provides a non-exhaustive list:

- prior to any notice of the dispute, the licensee used the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services or made demonstrable preparations for such use; or
- the licensee has been commonly known by the domain name, even if he has acquired no trademark; or
- the licensee is making a legitimate and non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark, trade name, social name or corporation name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity at issue.

Respondent alleges that it has chosen the Domain Name for the development of fitness and health club installations in real estate projects. Respondent also provides information on several projects which it has developed in the course of its business.

However, having regard to the facts at hand (in particular the fact that Respondent has not been using the Domain Name for more than 12 years and that the website was only created after the appointment of the Third-party decider), Respondent does not appear to have a real commercial or non-commercial project which could be of a nature to create a legitimate interest in the Domain Name.

Moreover, the willingness of Respondent to transfer the Domain Name to Complainant for 1.700 EUR appears to further indicate that Respondent does not have a clear plan for the (own or licensed) use of the Domain Name.

Under these circumstances, the Third-party decider finds that Respondent has no rights or legitimate interests in the Domain Name.

6.3. Registration or use in bad faith

Bad faith must be reasonably proven. Bad faith may be proven by any means, including presumptions and circumstances, that indicate with a reasonable degree of certainty the existence of bad faith, excluding any reasonable doubt. Article 10, b), 2 of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE enumerates in a non-limitative way a number of circumstances by which a Complainant can demonstrate the existence of bad faith. This is for example the case when the domain name consists of a widely known and famous trademark (or trade name) or of a trademark (or trade name) which is so arbitrarily chosen that it is excluded or at least extremely unlikely that a third party would by chance chose this very same word for its domain name (cfr. "fa.be", case n° 4014 – "Henkel / MADEurope.com").

In this case, the three-letter combination "GVT" is not well known and can be an abbreviation of a number of different combinations. The choice for the "gvt.be" Domain Name can therefore not be seen as a very unlikely or arbitral choice.

Although the history of CEPINA cases Respondent has been involved in and the facts at hand may one lead to presume a certain pattern of conduct (e.g. a pattern of registration and non-use of registered domain names in which Respondent has no genuine interest in view of reselling them later on), Complainant does not provide sufficient evidence to prove the existence of bad faith in this case with a reasonable degree of certainty (in fact, it provides no evidence at all).

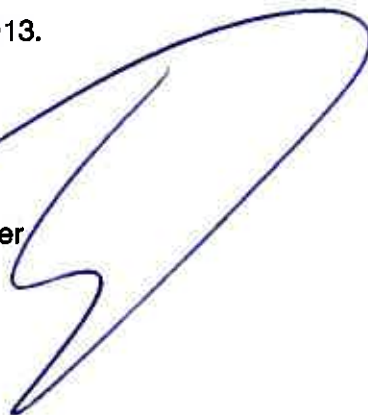
7. Decision

In the light of the foregoing, the Third-party decider holds that Respondent does not have a right or legitimate interest in respect of the Domain Name "gvt.be". However, Complainant does not prove that the Domain Name is identical or confusingly similar to a sign (e.g. a trade mark or a trade name) in which Complainant has rights. Finally, Complainant does not prove that Respondent registered or has been using the Domain Name in bad faith.

Accordingly, pursuant to Article 10, e of the of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, the Third-party decider hereby denies the request that the registration of the Domain Name "gvt.be" be transferred to Complainant.

Brussels, June 25, 2013.

Yves Van Couter
The Third-party decider





BELGIAN CENTRE FOR ARBITRATION AND MEDIATION

DECISION OF THE THIRD-PARTY DECIDER

Guy Van Tornhout NV / MADEurope.com

Case no. 44303 / gvt.be

1. The Parties

1.1. Complainant: Guy Van Tornhout NV;
with registered office at 9000 Ghent,
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0451.498.673.

Represented by:

Mr. Guy VAN TORNHOUT, managing director and
legal representative;
with office at 9000 Ghent, Kortrijksesteenweg 1098.

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1.2. Domain name holder: MADEurope.com EBVBA;
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0477.689.168.

Represented by:

Mr. Alexander WHITE, manager and legal
representative;
With office at 1050 Brussels, Rue de l'été 74.

Hereinafter referred to as the "Respondent".

2. Domain name

Domain name: **"gvt.be"**
Registered on: March 30, 2001

Hereafter referred to as "the Domain Name".

3. Procedural history

On April 24, 2013, Complainant filed a complaint with the Belgian Centre for Arbitration and Mediation (hereinafter referred to as "CEPINA") concerning the Domain Name. No exhibits were filed in support of the complaint.

On May 6, 2013, CEPINA informed Respondent of the complaint. Following this notification, and in accordance with the CEPINA Rules for Domain Name Dispute Resolution, Complainant and Respondent tried to reach an amicable settlement. On May 24, 2013 it became clear that the dispute could not be settled amicably.

On June 3, 2013 CEPINA invited the undersigned to settle the dispute regarding the Domain Name as Third-party decider. On June 4, 2013, the Third-party decider sent the statement of independence to CEPINA. By e-mail dated June 5, 2013, CEPINA informed both parties of the appointment of the Third-party decider.

CEPINA stated in this e-mail that, pursuant to Articles 13 and 16 of the CEPINA Rules for Domain Name Dispute Resolution, the debates would be closed 7 days from the date of the letter, i.e. by June 12, 2013 and that the Third-party decider had to inform the CEPINA secretariat of his decision by June 26, 2013 at the latest.

On June 12, 2013 Respondent forwarded its response to the complaint to the CEPINA secretariat, accompanied by its supporting documents. Because for technical reasons some of the supporting documents (a collection of e-mails) could not be delivered by e-mail, the Respondent submitted them with the CEPINA secretariat on a usb-stick and the CEPINA secretariat forwarded the given usb-stick to the Third-party decider by registered mail.

The Third-party decider did not receive any request from Complainant for an additional extension of the deadline in order to submit retort pursuant to Article 13 of the CEPINA Rules for Domain Name Dispute Resolution. The Third-party decider therefore did not take into account any information received after the date of closing of the debates (i.e. June 12, 2013). The Third-party decider thus issues his decision based on the complaint, the response, the evidence that was submitted in due time, the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, and the CEPINA Rules for Domain Name Dispute Resolution.

4. Factual background of the case

Complainant registered its company in 1993 under the name "Guy Van Tornhout". From publicly available information it appears that Complainant operates two telecom shops under the designations "Guy Van Tornhout" and "Group-VT". In that respect, Complainant is the owner of the domain names "guyvantornhout.be", "group-vt.be" and "nvgvt.be".

Respondent describes itself as a company specialised in marketing and communication in the real estate sector and the development of real estate projects.

According to Respondent's articles of association, Respondent may carry out various activities, such as: market analyses; any type of service, advice and training concerning trademark or design strategy; all kinds of PR, marketing and publicity services; organising all kinds of cultural, touristic or sports events; buying, selling, importing and exporting all kinds of leisure clothing and equipment; buying and

using the domain name concerned for '*domain name parking*' purposes only and that it did not have any right or legitimate interest in this domain name. The Third-party decider held that also the 'bad faith' criterion was met and ordered the transfer of the domain name.

Although the facts of this case are different from those of the two previous cases, they might reveal a certain pattern of conduct, i.e. accumulating domain names for which Respondent has no legitimate interest or rights, in view of reselling these domain names (the practice of 'domain name grabbing').

5. Position of the parties

5.1. Position of Complainant

Complainant argues that Respondent registered the Domain Name which is identical to its trademark "GVT". It also claims having tried to contact Respondent repeatedly, but these attempts failed because Respondent did not answer its calls and its e-mail could not be delivered.

Complainant requests the Third-party decider to order the transfer of the Domain Name. However, Complainant does not submit any further arguments to support its claim, nor does it file any evidence in support of its claim.

5.2. Position of Respondent

In summary, Respondent argues that:

- it registered and is using the Domain Name in good faith and for legitimate business activities;
- Complainant does not bear the trade name corresponding to the Domain Name or own the corresponding trademark, it does not use "GVT" in any way;
- there is no confusion between the business activities of both parties and Respondent does not interfere with Complainant's business activities;
- Complainant did nothing substantial to validate its claim for 12 years (2001-2013), although it was aware of the Domain Name at least since 2006;
- Complainant has in no way reasonably tried to communicate with Respondent and does not provide any material documents to support its claim; and
- Respondent always acted immediately and cooperatively when it was contacted by Complainant and was even prepared to undertake an amicable settlement of the case, which Complainant declined.

6. Discussion and findings

Pursuant to Article 16.1 of the CEPINA Rules for Domain Name Dispute Resolution, the Third-party decider shall rule on domain name disputes with due regard for the Policy and the CEPINA Rules for Domain Name Dispute Resolution.

Pursuant to Article 10, b (1) of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, the Complainant must prove the following:

- *the Licensee's domain name is identical or confusingly similar to a trademark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and*
- *the Licensee has no rights or legitimate interests in the domain name; and*

- *the Licensee's domain name has been registered or is being used in bad faith.*"

6.1. Identical or confusingly similar domain name

The Domain Name is "gvt.be".

Complainant operates under the trade names "Guy Van Tornhout" and "Group-VT". Complainant does not provide any evidence however that it is also active under the trade name "GVT". Contrary to what Complainant alleges ("*GVT is the trademark of Guy Van Tornhout*"), a search in the trademark registry showed that Complainant did not register "GVT" as a trademark.

Moreover, unlike in case n°44249 – "Tom De Ridder / Friso Haringsma", Complainant has not put forward any evidence that it has been commonly using the initials "GVT" in the course of trade during a certain period of time.

Under these circumstances, the Third-party decider finds that the Domain Name is not identical or confusingly similar to a trademark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which Complainant has rights. The first condition of Article 10, b (1) is therefore not proven.

6.2. No rights or legitimate interests

Pursuant to Article 10 b) 3 of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, Respondent's rights or legitimate interest to the Domain Name can be proven by certain circumstances, of which the given Article provides a non-exhaustive list:

- prior to any notice of the dispute, the licensee used the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services or made demonstrable preparations for such use; or
- the licensee has been commonly known by the domain name, even if he has acquired no trademark; or
- the licensee is making a legitimate and non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark, trade name, social name or corporation name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity at issue.

Respondent alleges that it has chosen the Domain Name for the development of fitness and health club installations in real estate projects. Respondent also provides information on several projects which it has developed in the course of its business.

However, having regard to the facts at hand (in particular the fact that Respondent has not been using the Domain Name for more than 12 years and that the website was only created after the appointment of the Third-party decider), Respondent does not appear to have a real commercial or non-commercial project which could be of a nature to create a legitimate interest in the Domain Name.

Moreover, the willingness of Respondent to transfer the Domain Name to Complainant for 1.700 EUR appears to further indicate that Respondent does not have a clear plan for the (own or licensed) use of the Domain Name.

Under these circumstances, the Third-party decider finds that Respondent has no rights or legitimate interests in the Domain Name.

6.3. Registration or use in bad faith

Bad faith must be reasonably proven. Bad faith may be proven by any means, including presumptions and circumstances, that indicate with a reasonable degree of certainty the existence of bad faith, excluding any reasonable doubt. Article 10, b), 2 of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE enumerates in a non-limitative way a number of circumstances by which a Complainant can demonstrate the existence of bad faith. This is for example the case when the domain name consists of a widely known and famous trademark (or trade name) or of a trademark (or trade name) which is so arbitrarily chosen that it is excluded or at least extremely unlikely that a third party would by chance chose this very same word for its domain name (cfr. "fa.be", case n° 4014 – "Henkel / MADEurope.com").

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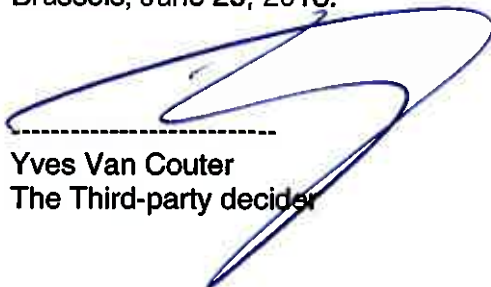
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7. Decision

In the light of the foregoing, the Third-party decider holds that Respondent does not have a right or legitimate interest in respect of the Domain Name "gvt.be". However, Complainant does not prove that the Domain Name is identical or confusingly similar to a sign (e.g. a trade mark or a trade name) in which Complainant has rights. Finally, Complainant does not prove that Respondent registered or has been using the Domain Name in bad faith.

Accordingly, pursuant to Article 10, e of the of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, the Third-party decider hereby denies the request that the registration of the Domain Name "gvt.be" be transferred to Complainant.

Brussels, June 25, 2013.



Yves Van Couter
The Third-party decider



BELGIAN CENTRE FOR ARBITRATION AND MEDIATION

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However, Respondent has not made any apparent use of the Domain Name since 2001 until the day of appointment of the undersigned in June 2013. It was therefore only after Respondent became aware of the complaint that they put any content on the website. This website thus seems to have been created solely for the purposes of influencing the Third-party decider's decision.

The following elements support the suspicion of the Third-party decider that this website was artificially created in the frame of this CEPINA procedure:

- the link to the "GVT exercise cages" leads to the website of a Polish fitness centre with no proven connection with Respondent;
- the link to GVT's fitness experts leads to the website "bodybuilding.com", owned by a US company that sells bodybuilding products (with no proven connection with Respondent); and
- the link concerning the concept of 'private gyms' leads to a Google Streetview image of Respondent's address.

Moreover, this is the third CEPINA domain name dispute in which Respondent's activities have been questioned. In the "fa.be" case from 2002 (case n° 4014 – "Henkel / MADEurope.com"), the Third-party decider held that Respondent did not have any right or legitimate interest in the contested domain name. There was however enough doubt to prevent the Third-party decider from presuming that Respondent registered or was using the domain name in bad faith. The complaint was therefore rejected. In the second case, "sputnik.be" (case n° 44260 – "Sputnik TV / Alexander White") from 2012, the Third-party decider held that Respondent was

using the domain name concerned for '*domain name parking*' purposes only and that it did not have any right or legitimate interest in this domain name. The Third-party decider held that also the 'bad faith' criterion was met and ordered the transfer of the domain name.

Although the facts of this case are different from those of the two previous cases, they might reveal a certain pattern of conduct, i.e. accumulating domain names for which Respondent has no legitimate interest or rights, in view of reselling these domain names (the practice of 'domain name grabbing').

5. Position of the parties

5.1. Position of Complainant

Complainant argues that Respondent registered the Domain Name which is identical to its trademark "GVT". It also claims having tried to contact Respondent repeatedly, but these attempts failed because Respondent did not answer its calls and its e-mail could not be delivered.

Complainant requests the Third-party decider to order the transfer of the Domain Name. However, Complainant does not submit any further arguments to support its claim, nor does it file any evidence in support of its claim.

5.2. Position of Respondent

In summary, Respondent argues that:

- it registered and is using the Domain Name in good faith and for legitimate business activities;
- Complainant does not bear the trade name corresponding to the Domain Name or own the corresponding trademark, it does not use "GVT" in any way;
- there is no confusion between the business activities of both parties and Respondent does not interfere with Complainant's business activities;
- Complainant did nothing substantial to validate its claim for 12 years (2001-2013), although it was aware of the Domain Name at least since 2006;
- Complainant has in no way reasonably tried to communicate with Respondent and does not provide any material documents to support its claim; and
- Respondent always acted immediately and cooperatively when it was contacted by Complainant and was even prepared to undertake an amicable settlement of the case, which Complainant declined.

6. Discussion and findings

Pursuant to Article 16.1 of the CEPINA Rules for Domain Name Dispute Resolution, the Third-party decider shall rule on domain name disputes with due regard for the Policy and the CEPINA Rules for Domain Name Dispute Resolution.

Pursuant to Article 10, b (1) of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, the Complainant must prove the following:

- *the Licensee's domain name is identical or confusingly similar to a trademark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and*
- *the Licensee has no rights or legitimate interests in the domain name; and*

- *the Licensee's domain name has been registered or is being used in bad faith.*"

6.1. Identical or confusingly similar domain name

The Domain Name is "gvt.be".

Complainant operates under the trade names "Guy Van Tornhout" and "Group-VT". Complainant does not provide any evidence however that it is also active under the trade name "GVT". Contrary to what Complainant alleges ("*GVT is the trademark of Guy Van Tornhout*"), a search in the trademark registry showed that Complainant did not register "GVT" as a trademark.

Moreover, unlike in case n°44249 – "Tom De Ridder / Friso Haringsma", Complainant has not put forward any evidence that it has been commonly using the initials "GVT" in the course of trade during a certain period of time.

Under these circumstances, the Third-party decider finds that the Domain Name is not identical or confusingly similar to a trademark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which Complainant has rights. The first condition of Article 10, b (1) is therefore not proven.

6.2. No rights or legitimate interests

Pursuant to Article 10 b) 3 of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, Respondent's rights or legitimate interest to the Domain Name can be proven by certain circumstances, of which the given Article provides a non-exhaustive list:

- prior to any notice of the dispute, the licensee used the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services or made demonstrable preparations for such use; or
- the licensee has been commonly known by the domain name, even if he has acquired no trademark; or
- the licensee is making a legitimate and non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark, trade name, social name or corporation name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity at issue.

Respondent alleges that it has chosen the Domain Name for the development of fitness and health club installations in real estate projects. Respondent also provides information on several projects which it has developed in the course of its business.

However, having regard to the facts at hand (in particular the fact that Respondent has not been using the Domain Name for more than 12 years and that the website was only created after the appointment of the Third-party decider), Respondent does not appear to have a real commercial or non-commercial project which could be of a nature to create a legitimate interest in the Domain Name.

Moreover, the willingness of Respondent to transfer the Domain Name to Complainant for 1.700 EUR appears to further indicate that Respondent does not have a clear plan for the (own or licensed) use of the Domain Name.

Under these circumstances, the Third-party decider finds that Respondent has no rights or legitimate interests in the Domain Name.

6.3. Registration or use in bad faith

Bad faith must be reasonably proven. Bad faith may be proven by any means, including presumptions and circumstances, that indicate with a reasonable degree of certainty the existence of bad faith, excluding any reasonable doubt. Article 10, b), 2 of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE enumerates in a non-limitative way a number of circumstances by which a Complainant can demonstrate the existence of bad faith. This is for example the case when the domain name consists of a widely known and famous trademark (or trade name) or of a trademark (or trade name) which is so arbitrarily chosen that it is excluded or at least extremely unlikely that a third party would by chance chose this very same word for its domain name (cfr. "fa.be", case n° 4014 – "Henkel / MADEurope.com").

In this case, the three-letter combination "GVT" is not well known and can be an abbreviation of a number of different combinations. The choice for the "gvt.be" Domain Name can therefore not be seen as a very unlikely or arbitral choice.

Although the history of CEPINA cases Respondent has been involved in and the facts at hand may one lead to presume a certain pattern of conduct (e.g. a pattern of registration and non-use of registered domain names in which Respondent has no genuine interest in view of reselling them later on), Complainant does not provide sufficient evidence to prove the existence of bad faith in this case with a reasonable degree of certainty (in fact, it provides no evidence at all).

7. **Decision**

In the light of the foregoing, the Third-party decider holds that Respondent does not have a right or legitimate interest in respect of the Domain Name "gvt.be". However, Complainant does not prove that the Domain Name is identical or confusingly similar to a sign (e.g. a trade mark or a trade name) in which Complainant has rights. Finally, Complainant does not prove that Respondent registered or has been using the Domain Name in bad faith.

Accordingly, pursuant to Article 10, e of the of the Terms and conditions of domain name registrations under the ".be" domain operated by DNS BE, the Third-party decider hereby denies the request that the registration of the Domain Name "gvt.be" be transferred to Complainant.

Brussels, June 25, 2013.

Yves Van Couter
The Third-party decider

