



BELGIAN CENTRE FOR ARBITRATION AND MEDIATION

Decision of the Third-Party decider

Test-Achats SCRL / Easy Domain Connect Ltd

Case No. 44230: tests-achats.be

1) The Parties

The Complainant in the administrative proceedings is **Test-Achats SCRL**, with its main office at 13, rue de Hollande, 1060 Brussels, Belgium, represented by Bertrand Vandeveld, avocat, with offices at 123, rue de Laeken, 1000 Brussels, Belgium.

Respondent is **Easy Domain Connect Ltd**, with its main office at Carpenter Court 1 Maple Road, SK7 2DH Cheshire, Stockport, United Kingdom.

2) Domain Name

The domain name at issue is “tests-achats.be” registered on 16 June 2010, hereinafter referred to as the “Disputed Domain Name”.

3) Procedural History

On 24 February 2011, Complainant filed a complaint form in English (the “Complaint”).

On 8 March 2011, Respondent sent an email to the Belgian Centre for Arbitration and Mediation (“the Centre”) in English as a response to the Complaint (the “Response”).

On 15 March 2011, the Centre inquired whether a transfer agreement was reached and informed the parties about the deadline for the Respondent to introduce its Response.

On 22 March 2011, the Complainant asked to continue the administrative procedure.

On 1 April 2011, the Centre invited Mr. Bart Lieben to serve as the Third-Party Decider.

On 5 April 2011, the Third-Party Decider sent the Statement of Independence to the Centre.

On 5 April 2011, the Third-Party Decider received the confirmation of his appointment as Third-Party Decider dated 5 April 2010 by the Centre. On the same day, he received a copy of the Complaint and of the Response, with attachments. On the same day, he was informed that the exchange of arguments would be closed on 12 April 2011 and that his decision was due on 26 April 2011.

No additional arguments were produced by the Parties prior to or on 12 April 2011.

The Third-Party Decider shall therefore render his decision based on the Complaint, the Response, Article 10 of the “Terms and conditions of domain name registrations under the “.be” domain operated by DNS.be”, entitled “Dispute resolution policy” (the “Policy”), and the Rules.

4) Factual Elements

The Complainant is the holder of *inter alia* the Benelux trademark (word and device) ‘TEST-ACHATS’ for goods and services in class 16, registered under number 0407935.

Complainant is active in Belgium in the offering of consumer protection through information, lobbying and other services to customers.

The Disputed Domain Name was registered on 16 June 2010. The WHOIS records show that the domain name is currently on hold and that it is held by Respondent.

The Disputed Domain Name is linked to a parking page with third party advertisements.

On 24 February 2010, the Complainant filed the Complaint with the Centre with the request to transfer the Disputed Domain Names to Complainant and to have the costs for the domain name dispute proceedings reimbursed to the Complainant.

5) Parties Contentions

a) Complainant

In summary, Complainant is of the opinion that:

- Respondent’s Domain Name is essentially identical and 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;
- Respondent has no rights or legitimate interests in the Domain Name; and
- Respondent’s Domain Name has been registered or is being used in bad faith.

b) Respondent

Respondent does not respond to the arguments of Complainant and unilaterally requested the Centre to give/transfer the Domain Name to the Complainant, undisputedly without making any reservations or imposing any conditions.

6) Discussion and Findings

The Third-Party Decider takes note of the Respondent’s explicit and unconditional request to have the Disputed Domain Name transferred to the Complainant, as mentioned in the Response.

Therefore, the Third-Party Decider is of the opinion that all the conditions for effectuating the transfer of the Disputed Domain Name have been fulfilled. Indeed, both Parties to the proceedings have requested the Centre to transfer the Disputed Domain Name to the Complainant.

In view of the above, the Third-Party Decider orders (or, insofar and to the extent necessary, confirms that the Parties have reached an unconditional consensus regarding) the transfer of the Disputed Domain Name to the Complainant.

This implies that the Third-Party Decider does not have to analyze whether or not the conditions required by the Terms and conditions of domain name registrations under the “.be” domain operated by DNS.be for ordering the transfer of a domain name are met (See *Belgacom Mobile SA v. Mr. Jason Harrington*, CEPINA Case No. 44096 (liveproximus.be)).

Furthermore, the Respondent did not address the issue of the reimbursement of the costs of these proceedings and did neither oppose to the continuation of the present proceedings.

Article 10, k) of the Terms and conditions of domain name registrations under the “.be” domain operated by DNS.be provides that, if the Third-party Decider concludes that the domain name registration needs to be struck out or transferred, DNS.be shall repay the totality of these costs to the Complainant and reclaim the thus repaid costs from the Respondent.

Since the Disputed Domain Name needs to be transferred, and since there was no opposition to the continuation of the present proceedings, the Third-Party Decider is of the opinion that the conditions for the reimbursement of the totality of the costs of these proceedings to the Complainant are met.

7) Decision

Consequently, pursuant to Article 10(e) of the *Terms and conditions of domain name registrations under the ".be" domain operated by DNS.be*, the Third-party decider hereby rules that the domain name registration for the "**tests-achats.be**" domain name is to be transferred to the Complainant.

Furthermore, the Third-Party Decider orders the repayment of the totality of the costs of these proceedings to the Complainant.

Bart Lieben
Third-Party Decider

26 April 2011