

ADMINISTRATIVE PANEL DECISION RELATED TO THE REQUEST TO CHANGE THE LANGUAGE OF THE ADR PROCEEDING

Maggie Sottero Designs, LLC v. Bianelli s.r.o.
Case No. DEUL2022-0006

1. The Parties

The Complainant is Maggie Sottero Designs, LLC, United States of America (“United States”), represented by Sparke Helmore Lawyers, Australia.

The Respondent is Bianelli s.r.o., Slovakia.

2. The Domain Name, Registry and Registrar

The disputed domain name is <maggiesottero.eu>.

The Registry of the disputed domain name is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain name is EXO TECHNOLOGIES spol. s r.o.

3. Procedural History

The Request to Change the Language of the ADR Proceeding (the “Request”) was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) pursuant to the .eu Alternative Dispute Resolution Rules (the “ADR Rules”), Paragraph A(3)(b), on June 21, 2022. On June 22, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On July 15, 2022, the Registry transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent and contact information in the Request. The Center sent an email communication to the Complainant on July 19, 2022, providing the registrant and contact information disclosed by the Registry, and inviting the Complainant to submit an amendment to the Request. The Complainant filed an amended Request on August 22, 2022.

In accordance with the ADR Rules, Paragraph A(3)(b)(3), the Center formally notified the Respondent of the Request, and the proceedings commenced on August 23, 2022. In accordance with the ADR Rules, Paragraph A(3)(b)(4), the due date for Response was September 4, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 6, 2022.

The Center appointed Peter Kružliak as the sole panelist in this matter on September 14, 2022, in accordance with the ADR Rules, Paragraph A(3)(b)(4). The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the ADR Rules, Paragraph B(5).

4. Factual Background

The disputed domain was registered on June 15, 2021, and resolves to an inactive website.

According to information provided by EURid, the language of Registration Agreement is Slovak.

5. Parties' Contentions

A. Complainant

The Complainant submitted Request to change the language of the ADR proceeding in accordance with Paragraph A(3)(a) of ADR Rules, upon which the Complainant may file a request, before initiating a Request, that the language of the ADR Proceeding will be different than the language of the Registration Agreement for the disputed domain name – in the present case the Complainant requested the change of language from Slovak to English.

The Complainant argued that it is based in the United States an English-speaking country, and its primary language of business is English, therefore if the ADR Proceeding was to be conducted in a language other than English, this would cause severe delay, cost and inconvenience to the Complainant. Furthermore, the disputed domain name is comprised of the English name "Maggie Sottero", which should have according to the Complainant no meaning in Slovak, and which should indicate that the Respondent has competence in the English language.

In order to support these arguments, the Complainant also referred to the decision of the Panel in WIPO Case No. [DEUL2021-0002](#), in which the Panel changed the language of the proceeding to English as the disputed domain name included English words that had no meaning in Estonian, which indicated that the Respondent had competence in the English language; and requesting a translation of the Complaint to Estonian, which was the original language of the registration agreement in that case, would cause according to the Panel undue delay of the proceedings and therefore be inequitable for both parties.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

In accordance with Paragraph A(3)(a) of the ADR Rules, "unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the ADR Proceeding shall be the language of the Registration Agreement for the disputed domain name. In the absence of an agreement between the Parties, the Panel may in its sole discretion, having regard to the circumstances of the ADR Proceeding, decide on the written request of a Complainant that the language of the ADR Proceeding will be different than the language of the Registration Agreement for the disputed domain name".

It is undisputed that the language of the Registration Agreement is Slovak and the Panel has not been notified of any agreement between the Parties regarding the language of the Proceedings.

Based on the wording of Paragraph A(3)(a) of the ADR Rules it is clear that the preferred language of the ADR Proceeding shall be the language of the registration agreement. On the other hand, it is generally recognized legal finding that in accordance with the ADR Rules, under certain circumstances, the language of proceedings may be different from the language of the registration agreement for the disputed domain name and such circumstances may include, the language/script of the domain name particularly where the same as that of the complainant's mark, and other indicia tending to show that it would not be unfair to proceed in a language other than that of the registration agreement (e.g. *Fruit of the Loom International Ltd. v. L.H. Oyen, Clothing Professionals* WIPO Case No. [DEUL2021-0005](#); *LEGO Juris A/S v. Leonid Žitnikov*, WIPO Case No. [DEUL2021-0002](#); *Alko Inc. v. Titan Trading OÜ, Stepan Moissejev*, WIPO Case No. [DEUL2021-0001](#); *Chevron Corporation, Chevron Intellectual Property LLC, and Chevron Belgium BV v. Kristiina Loodus, AS QLS*, WIPO Case No. [DEUL2020-0005](#); *Skyscanner Limited v. Bolognesi Damiano, Aim S.r.l.*, WIPO Case No. [DEUL2020-0001](#)).

Furthermore in accordance with Paragraph B(7)(b) and (c) of the ADR Rules, the Panel shall ensure on the one hand that the Parties are treated fairly and with equality, and on the other hand, that the ADR Proceeding takes place with due expedition (e.g. *Tish & Snooky's N.Y.C. Inc. v. Michael Kuehn*, WIPO Case No. [DEUL2022-0003](#); *Fruit of the Loom International Ltd. v. L.H. Oyen, Clothing Professionals* WIPO Case No. [DEUL2021-0005](#)).

The Panel notes that the disputed domain name includes an English name. Moreover, the name and surname included in the disputed domain name is clearly not of Slovak origin and therefore to identify and register it as domain name would require certain knowledge of the English language by the Respondent.

Furthermore, noting the Respondent has chosen not to object to the Complainant's language request, it must be held that it would not be unfair to proceed in a language other than that of the registration agreement.

Therefore, upon consideration of the circumstances described above, the Panel accepts in its sole discretion that the language of the ADR Proceeding shall be English.

7. Decision

For the foregoing reasons, in accordance with Paragraph A(3)(b)(6) of the ADR Rules, the Panel orders that the language of the ADR proceeding shall be English and any future submission by the Parties (including the submission of a new Complaint) regarding the disputed domain name *maggiesottero.eu* shall be made in the language of the ADR Proceeding in accordance with paragraph A(3)(c) of the ADR Rules.

This Panel's decision shall be final and not subject to appeal.

/Mgr. Peter Kružliak/

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Sole Panelist

Date: September 26, 2022