

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

Lidl Stiftung & Co. KG v. Lards RENAUD
Case No. DEUL2022-0007

1. The Parties

The Complainant is Lidl Stiftung & Co. KG, Germany, represented by HK2 Rechtsanwälte, Germany.

The Respondent is Lards RENAUD, France.

2. The Domain Name, Registry and Registrar

The disputed domain name is <admin-lidl.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 NETIM.

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 28, 2022. On June 29, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On July 6, 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 6, 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 amendment to the Request on July 11, 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 July 12, 2022. In accordance with the ADR Rules, Paragraph A(3)(b)(4), the due date for Response was July 24, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 25, 2022.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on July 27, 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 name was registered on January 5, 2022 and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant requests a change of the language of the ADR Proceeding in accordance with Paragraph A(3)(a) of the ADR Rules from French into English and asserts that it has established circumstances that justify the acceptance of such Request. The Complainant has argued a number of circumstances supporting English as the language of the ADR proceeding.

The reasons provided by the Complainant are:

"The Complainant has already succeeded with a joint UDRP Complaint against the domain names <b2b-lidl.online>, <fr-lidl.online> and <fr-lidl.store> (WIPO Case No. [D2022-0709](#)). According to the Registrant information revealed by the Registrar in that proceeding, the Registrant [...] of these three domains was a Mr. Lards Renoud [using] the same e-mail address as in the present case (see again Annex 01). That same uniquely identifying e-mail address is a clear indication that the same person or group of persons have registered the domain name at issue as well. This is also supported by the fact that <b2b-lidl.online>, <fr-lidl.online> and <fr-lidl.store> as well as the disputed domain <admin-lidl.eu> were all registered on the same date, January 5, 2022

[...]

The disputed domain name has been used to create an e-mail address from which at least one fraudulent e-mail was sent in the attempt to deceive a supplier of the Complainant.

The French company EUROPE AGRO, operating in the agri-food sector, contacted LIDL France in February 2022 and reported a suspected identity fraud.

EUROPE AGRO had received an email with the subject 'urgent order' sent from the address [...]@admin-lidl.eu by a person presenting himself as Mr. [...], 'director of the purchasing and sales department from the LIDL France' and claiming to be interested in a commercial relationship with EUROPE AGRO. He asked what products the supplier offered and pointed out that LIDL has many shops in the countries of the European Union and is one of the main players in the food distribution sector.

[...]

According to Section 6;1.A of NETIM's General T&C's, the Registrar regularly asks customers to file documents in English. Respondent has thus chosen a Registrar which he (Respondent) had to expect to be required to (also) communicate in English which again indicates the Respondent understands English.

[...]

As already mentioned above, the Complainant has already been successful with a joint UDRP complaint against <b2b-lidl.online>, <fr-lidl.online> and <fr-lidl.store> (WIPO Case No. [D2022-0709](#)). The UDRP proceedings concerning the other three domain names have all been conducted in English.

Further, according to the information provided by the concerned Registrar in the proceedings about the other three domain names, the Respondent in these proceedings was domiciled in London, Great Britain. This is another strong indication for the Respondent's full understanding of the English language.

Based on all these factual grounds, it does not appear that the Respondent would suffer any real prejudice if the proceedings are conducted in English."

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".

The procedure related to the request for a change to the language of the ADR Proceeding shall be as follows. The request shall be submitted to the Provider and shall amongst others (i) specify the requested change of the language of ADR Proceeding; (ii) specify the circumstances that would justify such a change of the language of an ADR Proceeding.

In this case, the language of the Registration Agreement is French. The Complainant requests that English should be the language of the proceeding.

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 shall ensure, on the other hand, that the ADR Proceeding takes place with due expedition.

The Panel considers the following circumstances of the present proceeding:

- The on-site contact for the disputed domain name according to EURid verification uses the same email address as the Respondent, and provides an address located in Leicester, Great Britain, United Kingdom, where the official language is English;
- The use of English as language in a fraud scheme indicates Respondent's full understanding of the English language;
- The Respondent has chosen a Registrar who is likely to require communications in English;
- The Complainant has already been faced with a Respondent using the same uniquely identifying email address in a separate UDRP complaint (*LIDL Stiftung & Co. KG v. Lards Renoud*, WIPO Case No. [D2022-0709](#)), for which the proceeding was conducted in English, and the Respondent provided an address in the United Kingdom for the registration of those domain names.

In the present case, the Panel therefore is satisfied that the Respondent has knowledge of the English language so that proceeding in English is fair and equal for the Complainant and the Respondent. This is supported by the fact that the Respondent did not object the request to change the language.

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 <admin-lidl.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.

/Benoit Van Asbroeck/

Benoit Van Asbroeck

Sole Panelist

Date: August 8, 2022