

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

Lidl Stiftung & Co. KG v. Sebastian Roche
Case No. DEUL2022-0009

1. The Parties

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

The Respondent is Sebastian Roche, Belgium.

2. The Domain Name, Registry and Registrar

The disputed domain name is <lidl-produits.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 Combell NV.

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 September 13, 2022. On September 14, 2022, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On September 21, 2022, the Registry transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

In accordance with the ADR Rules, Paragraph A(3)(b)(3), the Center formally notified in English and in French the Respondent of the Request, and the proceedings commenced on September 26, 2022. In accordance with the ADR Rules, Paragraph A(3)(b)(4), the due date for Response was October 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 10, 2022.

The Center appointed Assen Alexiev as the sole panelist in this matter on October 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 name was registered on August 3, 2022 and resolves to a Registrar's parking page. The language of the Registration Agreement is French.

5. Parties' Contentions

A. Complainant

The Complainant requests that English be the language of the ADR Proceeding.

According to the Complainant, the Respondent understands English. It submits that domain names consisting of its LIDL trademark and descriptive terms are often used to create email addresses for fraudulent activities that are typically conducted in English. The Complainant adds that it would have to commission cost-intensive translations for ADR proceedings conducted in French which would also unreasonably prolong the proceedings.

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."

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.

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

The Respondent was duly informed of the Complainant's request that the proceeding be held in English through correspondence from the Center that was written both in English and in French. There is therefore no reason to doubt that the Respondent became aware of this request and understood that it had an opportunity to respond either by accepting it or by requiring that the proceeding should be held in French. The Respondent however did not respond in any way and did not object to the Complainant's request or dispute the Complainant's factual allegations or evidence attached to it. The Respondent did not bring forward any arguments why it would be treated unfairly if the proceeding is held in English or any reason why its adoption may delay the proceeding; it did not show any intention to participate in the proceeding. This Panel would expect a party that intends to participate in the proceeding, but has problems communicating in English, to maintain that the language of the proceeding should not be changed to English.

The above leads the Panel to the conclusion that it is more likely that the Respondent can communicate in English and that the adoption of this language in the proceeding would not negatively affect the Respondent's ability to defend itself or the equality of the Parties. Rather, it appears that the adoption of English as the language of the proceeding would be fair and would contribute to the case taking place with due expedition and without an unreasonable increase of the costs.

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 <lidl-produits.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.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: October 24, 2022