

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

Mermet S.A.S. v. Didier Mermet  
Case No. DEUL2023-0007

### **1. The Parties**

The Complainant is Mermet S.A.S., France, represented by Windt Le Grand Leeuwenburgh Advocaten, Netherlands (Kingdom of the).

The Respondent is Didier Mermet, France.

### **2. The Domain Name, Registry and Registrar**

The disputed domain name is <mermet.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 Scaleway SAS.

### **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 December 6, 2023. On December 8, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On December 11, 2023, 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 the Respondent of the Request, and the proceedings commenced on December 20, 2023. In accordance with the ADR Rules, Paragraph A(3)(b)(4), the due date for Response was January 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 3, 2024.

The Center appointed Louis-Bernard Buchman as the sole panelist in this matter on January 4, 2024, 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 Complainant is a company incorporated in France.

The Respondent is located in France.

The disputed domain name was registered on May 18, 2011.

The Registry confirmed that the language of the registration agreement of the disputed domain name is French.

#### **5. Parties' Contentions**

##### **A. Complainant**

- (i) The Complainant contends that it is part of a group of companies where the primary language is English and where the responsible agents within the Complainant only speak English, also vis-à-vis its outside counsel.
- (ii) The Complainant contends further that it will therefore be unduly disadvantaged if the proceedings are conducted in French.
- (iii) The Complainant requests that the language of the ADR proceeding be changed to English.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

The Registry having confirmed that the language of the registration agreement of the disputed domain name is French, the Complainant duly filed a formal request that the language of the proceeding be changed to English.

The Respondent failed to comment on or object to this request, despite the Center's invitation to do so, expressed in French as well as in English, such invitation having been sent to the Respondent on December 20, 2023.

Pursuant to 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, filed before initiating a Complaint, that the language of the ADR Proceeding will be different than the language of the Registration Agreement for the disputed domain name.

The Respondent having failed to agree to the change of language requested by the Complainant, the Panel has consequently the discretion to decide that the language of the ADR proceeding shall be other than that of the registration agreement, as requested in writing by the Complainant, provided that the Panel exercises with fairness its discretion, treating each party equally and taking into account all relevant circumstances, such as the parties' ability to understand and use the proposed language, time and costs.

The Panel first notes that according to evidence produced by the Complainant, its President is a Dutch national, domiciled in the Netherlands, so it can safely be assumed that he does not speak only English.

The Panel also notes that the Respondent's LinkedIn profile produced in evidence by the Complainant seems not to be in English as alleged by the Complainant, but in Dutch, it nevertheless states "anglais" (i.e., "English" under the Languages section ("Talen" in Dutch), thus evidencing that English is a language used and understood by the Respondent.

The Panel infers from the above circumstances that the Respondent will not be unduly prejudiced by a change of the language of the proceeding to English, in the light of his having failed to timely object to such possibility.

Having to ensure that the ADR proceeding takes place with due expedition, the Panel, who is conversant in both English and French, determines pursuant to Paragraph A(3)(a) of the ADR Rules that the appropriate language of the proceeding is 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 <mermet.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.

*/Louis-Bernard Buchman/*

**Louis-Bernard Buchman**

Sole Panelist

Date: January 8, 2024