

ADMINISTRATIVE PANEL DECISION RELATED TO THE REQUEST TO CHANGE THE LANGUAGE OF THE ADR PROCEEDING CARREFOUR v. Domain Privacy, Domain Privacy OÜ Case No. DEUL2023-0005

1. The Parties

The Complainant is CARREFOUR, France, represented by IP Twins, France.

The Respondent is Domain Privacy, Domain Privacy OÜ, Estonia.

2. The Domain Name, Registry and Registrar

The disputed domain name is <hypercarrefour.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 Domain Robot.

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 29, 2023. On October 2, 2023, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On October 5, 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 October 5, 2023. In accordance with the ADR Rules, Paragraph A(3)(b)(4), the due date for Response was October 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 19, 2023.

The Center appointed Indrek Eelmets as the sole panelist in this matter on October 23, 2023 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 in this administrative proceeding is a public limited company registered in France.

The Respondent is located in Tallinn, Estonia.

The disputed domain name was registered on April 21, 2023. The language of the registration agreement is Estonian. The disputed domain name currently resolves to an inactive site.

The Respondent neither issued a request to communicate in Estonian nor responded to the Complainant

5. Parties' Contentions

A. Complainant

The language of the registration agreement for the disputed domain name is Estonian. The Complainant requests that the language of the ADR proceeding be English. As set forth by Paragraph A(3)(b)(1)(iii) of the ADR Rules, the Complainant specifies, *inter alia*, the following circumstances to justify a change of language of this ADR proceeding to English:

- The website of the registrar does not contain any agreement in Estonian. The registrar's website is available only in English and German;
- The disputed domain name is parked with ParkingCrew, a German company the website of which does not contain any information in Estonian;
- The Complainant is unable to communicate in Estonian and it does not operate in Estonia;
- The domain name entirely incorporates the trademark. The well-known nature of the Complainant's trademark has been recognized in a substantial number of decisions;
- Translation of the Request would unfairly disadvantage and burden the Complainant and delay the proceedings;
- English is the business language of international agreements and disputes. Furthermore, the country-code top-level domain ".eu" is a supranational character and targets consumers from all over the European Union, who are more likely to be familiar with English language than with Estonian language;
- In the absence of a response from the Respondent, the Complainant asks the Panel to conclude that the Respondent has waived its right to defend its position regarding the determination of the applicable language and that the choice of Estonian by the Respondent was vexatious in order to make the enforcement of rights in the potential ADR proceedings difficult or impossible.

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 Panel has not been made aware of any agreement between the parties pertaining to the language of the proceedings. Furthermore, it is undisputed in the case at hand that the language of the registration agreement is Estonian.

In accordance with the general powers attributed to the Panel under 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. It is recognized that the ADR Rules are considered a variation of the Uniform Domain Name Dispute Resolution Policy (“UDRP”), under which the panels recognize that under certain circumstances the language of proceedings may be different from the language of the registration agreement for the disputed domain name. Such circumstances include:

- (i) evidence showing that the respondent can understand the language of the complaint;
- (ii) the language/script of the domain name particularly where the same as that of the complainant’s mark;
- (iii) any content on the webpage under the disputed domain name;
- (iv) prior cases involving the respondent in a particular language;
- (v) prior correspondence between the parties;
- (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint;
- (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language;
- (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names;
- (ix) currencies accepted on the webpage under the disputed domain name; or
- (x) 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., *Chevron Corporation, Chevron Intellectual Property LLC, and Chevron Belgium BV v. Kristiina Loodus*, AS QLS, WIPO Case No. [DEUL2020-0005](#); *Sky scanner Limited v. Bolognesi Damiano, Aim S.r.l.*, WIPO Case No. [DEUL2020-0001](#); *Sphinx Information Technology Consulting and Software Project GmbH v. Sphinx IT SRL Verfahrensnr.*, WIPO Case No. [DEUL2018-0001](#)).

In the present case, the Respondent has not submitted any response or communication with the Center claiming that English is a language beyond its comprehension.

The Panel agrees with the Complainant’s contentions that the English-language websites of the Registrar and the domain parking service provider indicate that the Respondent has sufficient knowledge of English.

Finally, the Respondent’s name Domain Privacy OÜ is in English (OÜ or “osaühing” in Estonian means private limited company).

In light of the indicated circumstances, the Panel is satisfied that the Respondent has more than an adequate knowledge of the English language so that proceeding in English is fair and equal.

In addition, the Panel notes that requesting a translation of the Complaint will cause undue delay of these proceedings and therefore be inequitable for both parties and contrary to the obligation to proceed with these ADR Proceedings with due expedition.

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 <hypercarrefour.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.

/Indrek Eelmets/

Indrek Eelmets

Sole Panelist

Date: November 4, 2023