

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

iManage LLC v. Dieter Kann, Cyberstore GmbH
Case No. DEUL2024-0003

1. The Parties

The Complainant is iManage LLC, United States of America (“United States”), represented by McDonald Hopkins LLC, United States.

The Respondent is Dieter Kann, Cyberstore GmbH, Germany.

2. The Domain Name, Registry and Registrar

The disputed domain name is <imanager.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 Knipp Medien und Kommunikation GmbH (“Registrar”).

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 August 28, 2024. On August 29, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On August 30, 2024, the Registry transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact.

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 September 9, 2024. In accordance with the ADR Rules, Paragraph A(3)(b)(4), the due date for Response was September 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 26, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on October 10, 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).

On September 27, 2024, the Respondent has informed the Center that it deleted the disputed domain name. On October 8, 2024, the Respondent has informed the Center that it is no longer the owner of the disputed domain name. In reply to both communications, the Center has informed both Parties that if the Parties wish to explore settlement options on the merits, outside the process outlined in article A3(b) of the ADR Rules and without the participation of the Center, the Complainant should request termination of the proceeding. On October 9, 2024, the Complainant informed the Center that, although the Respondent claims to have “given up” the disputed domain name, the disputed domain name is still shown as “unavailable”. The Complainant therefore informed the Center that it wishes to continue with the proceeding.

4. Factual Background

The following facts are undisputed.

The Complainant is a company located in the United States. The Respondent is located in Germany.

The Complainant is the owner of the European Union trademark IMANAGE, with registration No. 001771419 and registered on November 21, 2001.

The Respondent registered the disputed domain name April 7, 2006, with the Registrar. The Registrar is located in Germany.

5. Parties' Contentions

A. Complainant

The Complainant contends that the language of the proceedings should be in the English language and that the Complainant fulfilled all the requirements for the proceedings to be in English.

The Complainant states that the Registration Agreement is in the English language, and thus, according to Rule 3 (a) of the ADR Rules, the language of the ADR proceedings should be in English. Rule 3(a) does not say that the language shall be the language identified on the Whois record for the domain name. Instead, by the rule, it is the language of the “Registration Agreement” that controls.

In addition, the Respondent has shown that it can understand the English language, because the disputed domain name is written in English. The word “manage” is an English word.

Moreover, the disputed domain name is offered for sale by the Respondent on sedo.com, which is an American website, in the English language, and the terms and conditions of this website are in English as well. This means that the Respondent already agreed with English term and conditions, which indicates that the Respondent can understand English.

Also, the website of the Respondent is in English. Furthermore, on the website of the Respondent many other domain names are offered for sale, which indicates that all these domain names are registered by the Respondent. Many domain names consist of English words as well. Moreover, filing a complaint in German would create an undue burden on the Complainant and delays a remedy. Panels have held that the language requirement should not cause any undue burden on the parties or undue delay.

Therefore, the language of the proceedings should be English.

B. Respondent

The Respondent did not substantively reply to the Complainant's contentions. As set out under Section 3 (Procedural History), the Respondent merely sent out several emails in English and German stating that it had "given up" the disputed domain name and that the disputed domain name is thus available for registration.

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, 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 Panel has not been made aware of any agreement between the Parties pertaining to the language of the proceedings.

The Whois information indicates that the registration agreement is in German. Moreover, according to the Registry's verification reply to the Center, the specific language of the registration agreement as used by the Respondent is German.

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 side 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 (the "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) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (iv) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, or (v) 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., *Sphinx Information Technology Consulting and Software Project GmbH v. Sphinx IT SRL*, WIPO Case No. [DEUL2018-0001](#); also see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.5).

The Panel takes the following into consideration:

- the Respondent did not object for English to be the language of the proceedings;
- the Respondent clearly understood the subsequent submissions in English and was able to reply to these submissions also in English;
- the disputed domain name consists of two English terms "i" and "manage";
- the Respondent's main website under the domain name <cyberstore.de> consists of two English terms "cyber" and "store";
- the Respondent's main website is available in English;
- the domain names which can be purchased on Respondent's main website almost all consist of English words.

In addition, the Panel accepts 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.

Therefore, having regard to the above circumstances, the Panel accepts in its sole discretion that the language of the ADR Proceeding will 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 <imanager.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.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: October 17, 2024