

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

Hexion Inc. and Hexion VAD B.V. v. main.Do
Case No. DEUL2024-0007

1. The Parties

The Complainants are Hexion Inc., United States of America (“The Complainant 1”) and Hexion VAD B.V., Netherlands (Kingdom of the) (“The Complainant 2”) represented by Squire Patton Boggs (US) LLP, United States of America (“US”).

The Respondent is main.Do, Netherlands (Kingdom of the), self-represented.

2. The Domain Name, Registry and Registrar

The disputed domain name is <hexion.eu> (the “Domain Name”).

The Registry of the Domain Name is the European Registry for Internet Domains (“EURid”). The Registrar of the Domain Name is EURid vzw.

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 10, 2024. On December 10, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the Domain Name. On December 11, 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 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 16, 2024. In accordance with the ADR Rules, Paragraph A(3)(b)(4), the due date for Response was December 28, 2024. The Respondent submitted a response on December 24, 2024, in Dutch. Accordingly, the Center acknowledged receipt of the Response on January 8, 2025.

The Center appointed Gregor Vos as the sole panelist in this matter on January 14, 2025, 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 1 is a company registered under the laws of the US, with registered business seat in Columbus, Ohio, US. The Complainant 2 is a company registered under the laws of the Netherlands (Kingdom of the). The Respondent is a Dutch organization with registered seat in the Netherlands (Kingdom of the).

The Domain Name was registered on August 15, 2021. The language of the registration agreement is Dutch.

5. Parties' Contentions

A. Complainant

Insofar as relevant, the Complainants contend the following.

The Complainants request that the language of the ADR proceeding be English instead of Dutch. As set forth by Paragraph A(3)(b)(1)(iii) of the ADR Rules, the Complainants specify, inter alia, the following circumstances to justify a change of language of this ADR proceeding to English.

The Complainants' primary language of business is English. Also, the homepage of the Respondent that is accessible through the domain name <maindo.com> solely contains English content and the Complainants corresponded with the Respondent via e-mail in English. Further, the Top-Level Domain ("TLD") ".eu" refers to a supranational, European character where the business language is English.

The Complainants nor their representative is unable to efficiently communicate in Dutch and conducting the proceedings in Dutch would unduly burden the Complainants to have to arrange the translation services and unfairly force it to bear translation costs.

B. Respondent

The Respondent filed a Response and requested that the language of the proceeding is maintained Dutch.

The ADR Rules stipulate that the language of the proceedings shall be the language of the registration agreement, unless otherwise agreed by the parties. The language of the registration agreement is Dutch, and the Complainants have not agreed with the Respondent to use another language. For earlier communication with the Complainants, the Respondent used ChatGPT which would not suffice in legal proceedings for legal documents.

Also, conducting the proceedings in English would unreasonably burden the Respondent financially and administratively.

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 the present case, the Panel has not been made aware of any agreement between the Parties pertaining to the language of the proceedings. Furthermore, it results from the Registrar verification that the language of the registration agreement is Dutch.

The ADR Rules force the Panel to take a decision which either will require the Complainants to submit their Complaint in Dutch or to require the Respondent to submit its Response in English. The Panel would be inclined to accept a change of the language to English if the Respondent would have an excellent command of English or if it would not be likely that it will seriously defend a complaint.

From reviewing the case file, the Panel is of the view that the use of English by the Respondent would unduly burden the Respondent. The Panel does not rule out that for his communications in English, the Respondent has used ChatGPT. In addition, it is likely that the Respondent will defend a complaint, although it is – unlike the Complainants – not represented by a legal counsel. Also, the Panel notes that the Complainant 2 is located in Netherlands (Kingdom of the) and should be able to understand Dutch.

On balance, the Panel takes the view that the right for the Respondent to properly defend itself outweighs the costs and inconvenience of a translation of the Complaint by the Complainants.

In view of the circumstances of the case, the Panel finds that there is insufficient ground to deviate from the main rule that the language of the proceedings shall be the language of the registration agreement.

Therefore, the Panel finds that Dutch is the appropriate language of this proceeding.

7. Decision

For the foregoing reasons, the Request is denied.

This Panel's decision shall be final and not subject to appeal.

/Gregor Vos/

Gregor Vos

Sole Panelist

Date: January 21, 2025