

Alternative Dispute Resolution for .eu Domain Names

Every time that a new Top-Level Domain is introduced, cybersquatters aim to profit from the goodwill of third party trademarks by the bad-faith registration and trafficking in domain names that are identical or confusingly similar to that trademark.

This was particularly true in connection with the recent introduction of the .eu Top-Level Domain (TLD), which started on December 7, 2005, and is claimed to be the most successful introduction of a new TLD of all time. According to the official registry EURid, there are approximately 2.4 million .eu domain names in current use, making .eu the third most registered country-code TLD in Europe (right after .de and .uk).

Regardless of this quantitative success, the introduction of .eu was, above all, characterized by its extremely formalistic "Sunrise Period," which initially was meant to protect trademark owners, but actually allowed domain name grabbers to profit from bureaucratic mistakes both in the complex and often inconsistent legal framework provided by the European Commission as well from simple formal mistakes by the applicants themselves. Moreover, since the start of the subsequent "Landrush Period," on April 7, 2006, which now allows the registration of .eu domain names to any interested party with legal domicile within the European Union, a significant percentage of the 2.4 million registrations again were registered by professional cyber-squatters.

As a result, many trademark owners still seek to register the .eu domain name of their first choice. They have realized that domain name matters should not always be left with IT departments, but from time to time require professional legal assistance.

Scope of ADR procedures for .eu Domain Names

The most efficient way to challenge an unlawful .eu domain name registration is by filing a complaint with the Czech Arbitration Court in Prague, presently the only competent court with regard to Alternative Dispute Resolution (ADR) for .eu domain names.

The ADR process is available to all clear cases of trademark infringement. A decision is usually rendered in favor of the complainant provided that:

- The disputed domain name is identical, or confusingly similar, to a name in which rights are recognized by any national and/or community law (such as registered or unregistered trademarks, company names, trade names and business identifiers, family names, and distinctive titles of protected literary and artistic works).

- The holder registered the domain name without holding any trademark rights or legitimate interest in a particular domain.
- The domain name was registered, or has been used, in bad faith.

The .eu ADR process, therefore, is considerably broader than the scope of the Uniform Dispute Resolution Policy which is applicable to all generic TLDs (e.g., .com, .org, .net, .mobi) and a number of country-code TLDs (e.g., .au for Australia, .es for Spain, or .fr for France).

Advantages of .eu ADR Procedures

The advantages of .eu ADR procedures can be summarized as follows:

- Quick decisions (rendered in 8-10 weeks from the filing of the complaint);
- Written proceedings (mostly online) with no in-court hearings;
- Considerably less expense than ordinary court trials (however, there is no cost recovery);
- No preclusion of ordinary trials (i.e., in case of a denying decision, the complainant is still free to challenge the domain name registration before an ordinary court); and
- Remedies include injunctions preventing use of the domain name pending the ADR decision, and transfer of domain name ownership to prevailing complainants.

Therefore, if your company desires to register a .eu domain name in which you claim to have any intellectual property rights, but which is already registered to a third party, consider filing an ADR complaint rather than a complaint with a regular court of law. In particular, do not buy domain names from cybersquatters (except for exceptional cases); this will encourage more cybersquatting, in particular typosquatting (meaning misspelled domain name registrations), which can do significant damage to your trademarks. Very often, the cost of an ADR procedure will be in the range of, or even lower than, the purchase price for a domain name that reflects a valuable trademark.

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