



European Communities Trade Mark Association

To:
Czech Arbitration Court
Dlouhá 13,
110 00 Prague 1
Czech Republic

c.c.
EURid
Att: Marc van Wesemael

European Commission
Att: Mr. Victor Sáez

Antwerp, 7 September 2005

Dear Sir / Madam,

Re: Comments on the proposed .eu Dispute Resolution Rules and Supplemental Rules.

On behalf of the Internet Committee of ECTA - the European Communities Trade mark Association - we thank you for the opportunity to comment on the proposed .eu Dispute Resolution Rules.

Generally speaking, we are very pleased with the proposal. To a large extent it is based on the rules of the uniform dispute resolution procedure under ICANN which has now been in force for more than five years and which, in our experience, works quite well.

At the same time, the proposed rules properly reflect and take into consideration the peculiarities of the .eu domain name system as it is laid down in Regulations 733/2002 and 874/2004 (such as the eligibility criteria and the availability of these proceedings towards decisions by the Registry). The proposed rules thus seem to serve the purpose of getting right holders an easy and (somewhat) speedy way of dealing with abusive registrations while at the same time securing due process of law.

We do, however, take the opportunity of providing you with comments to those of the rules that we regard as the most important and to which we have some questions or comments:

Rule A 3

Although we recognise that it is a generally sound rule that it is the language of the registration agreement that shall form basis of the dispute as laid down in the regulation, this does, however, mean that cybersquatters may (mis-)use this language regime by filing

applications for .eu domain names using the minor official languages of the EU. We therefore welcome the possibility of conducting the ADR proceedings in another language. This could for instance be the common language of Complainant and Respondent if any or in the language in which any initial contact between the parties has been conducted.

It is not clear from rule A 3 b that the request for change of language can be filed at the same time as the complaint but we take it that this will be a possibility. As we understand rule A 3 7, you can prior to filing a complaint file a request and get a decision on which language shall apply. We welcome this opportunity since unnecessary translations of the Complaint, the Response and the accompanying documents can be avoided.

As to rule A 3 c, from a practical point of view it seems acceptable that proceedings against EURid shall be conducted in English but since this means that any document provided as part of such a complaint shall in principal also be in English this will be a potential burden for complainants coming from non-English speaking countries. It is therefore important that rule A 3 e will be administered properly so that the provider or the panel only orders translations of the relevant parts of the accompanying documents.

We therefore think that rule B 1 d of the Supplementary Rules should be softened so that it is clear that it is only the relevant parts of the documents submitted as part of a complaint that shall be translated. It will be up to the party filing the document to decide which parts are relevant based on the understanding that the non-translated parts of the document will not be taken into account. Since it is not required we take it that the translation need not be done by a certified translator but can be done by the party itself with a declaration that the translation is true and correct.

Rule A 6

Since it is possible to file a complaint that relates to more than one domain name provided that the domain names are registered by the same Respondent, we will suggest that the structure of the fees follows that of the UDRP in a way that the basic fee allows you to include for instance five domain names and that supplementary fees shall be imposed depending on the final number of domain names included.

Rule B 1 11

In case you file a complaint against a decision taken by EURid, we think that the complainant must specify whether he requests transfer, revocation or allocation of the disputed domain name and not just the annulment of the decision.

Rule B 9

If the panel uses its discretion to request or admit further statements or documents from one of the parties, it should be clear that the other party shall be informed of this and dependent on the circumstances be given a possibility to comment on the admitted submission within a fixed time.

Rule 12 C

As pointed out above, the remedy in case of an annulment of a decision by EURid is not necessary transfer but can also be revocation or attribution as stated in the Public Policy Rules Art. 22.11.2.

Rule 13 D and 15

This is an implementation of Art. 22.13 of the Public Policy Rules but from our experience under the UDRP it could be considered to include - either in the rules or the supplementary rules - exactly how the respondent shall inform the provider and EURid that a court proceeding has been initiated. Is it sufficient to supply and provide EURid with a faxed copy of the writ? Shall it suffice to translate only the claims in the writ so that it is clear that the decision of the panel is actually part of the dispute? Shall the respondent provide a receipt from the court acknowledging and accepting the case? We think the answer to all three questions should be yes.

"Clerical" comments

In Rule A 1 on the definition of the relevant Regulations: omit the word "Commission" in the first line. The first Regulation is not a Commission Regulation

In Rule B 4 c replace "it" with "Respondent". Makes the wording clearer.

In Rule B 12 3: omit the word "professional". It is superfluous.

In Supplemental Rules A 1 b: omit the word "as" in 1st line. Makes the wording clearer.

We hope that you find our comments useful. If you have any questions in this regard or if we can assist you in any other way, please feel free to contact us again.

Yours sincerely



Max Oker-Blom
President



Knud Wallberg
Chairman Internet Committee