



BELGIAN CENTRE FOR ARBITRATION AND MEDIATION

Decision of the Third-Party decider

Enerbo bvba / Easy Domain Connect LTD

Case No. 44470: enerbo.be

1 THE PARTIES

Complainant: Enerbo bvba – with registered office at 9290 Berlare, Sarosstraat 16, listed in the Belgian trade register under number 0432.824.589 represented by Stefaan Storme, representative authorized to act for Complainant

Domain name holder: Easy Domain Connect LTD – with registered office at Great Britain, Stockport, SK7 2DH Cheshire, Carpenter Court 1 Maple Road

2 DOMAIN NAME

The domain name at issue is “enerbo.be” registered on 11 May 2009, hereinafter referred to as the “**Disputed Domain Name**”.

3 PROCEDURAL HISTORY

On 9 September 2019, Complainant filed a complaint form in English (the “**Complaint**”).

The Domain name holder did not respond to the Complaint.

4 ELEMENTS OF FACT

The Complainant is a Belgian company, which was established in 1987 under the name “ENERBO”.

The Complainant is a company specialized in the construction of wooden frame houses.

According to the Complainant, the Disputed Domain Name was originally registered by the Complainant and then lapsed unwillingly.

5 PARTIES CONTENTIONS

5.1 Complainant

In summary, Complainant argues that:

- The Disputed Domain Name is identical to the Complainant's trade name;
- Respondent has no rights or legitimate interests in the Disputed Domain Name; and
- The Disputed Domain Name has been acquired for the purpose of selling, renting or otherwise transferring the domain name to the complainant who is the owner of the trade name or company name for a price that exceeds the costs that the registrant can show are directly related to the acquisition of the domain name.

5.2 Domain name holder

The Domain name holder did not respond.

6 DISCUSSION AND FINDINGS

6.1 Analysis of the Complaint

Article 15.1 of the Rules instructs the Third-Party Deciders as to the principles the Third-Party Decider is to use in determining the dispute: "*The Third-Party Decider shall decide following the parties views and in accordance with dispute resolution policy, the registration agreement and following the provisions of the present Rules.*"

By virtue of Article 10, b, 1, of the Policy the Complainant must prove each of the following:

- "the domain name holder's domain name is identical or confusingly similar to a trademark, a trade name, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and
- the domain name holder has no rights or legitimate interests in the domain name; and
- the domain name holder's domain name has been registered or is being used in bad faith."

(a) ***Identity or confusing similarity***

The Disputed Domain Name is “enerbo.be”

The Complainant was founded in 1987 and it can be assumed that it has been operating under the same name, *i.e.* ‘ENERBO’, since then.

The Disputed Domain Name is identical to the Complainant's company name.

Therefore, the first condition is met.

(b) ***Legal rights or legitimate interests***

The Complainant points out that the Domain name holder has no trademark nor company name linked to ‘ENERBO’.

It appears that the website of the Domain name holder accessed through the Domain Name is very poorly developed. It does not contain any reference to products or services marketed under the name "ENERBO" but does contain several links to other websites of merchants who seem to offer similar services to those of the Complainant.

On the other hand, it appears that the Complainant previously owned the Disputed Domain Name whose registration in the Complainant's name has been terminated unwillingly and also owns the domain name enerbo.com since 19 May 2009.

In view of the above, the Third-Party Deciders decide that this condition is also met.

(c) ***Registration or use in bad faith***

Article 10(b)(2) of the General Terms and Conditions lists five circumstances that may, but are not limited to, evidence that a domain name has been registered or is being used in bad faith under Article 10(b)(1) of the General Terms and Conditions.

It appears from the arguments presented by the Complainant that he relies on the first example of the list in the above-mentioned article, which provides: “*the facts show that the domain name has been registered or acquired primarily for the purpose of selling, renting or to transfer this domain name in another way to Complainant who is the owner of the trademark, name commercial, corporate or company name, geographical indication, designation of origin, indication of origin, name of person or name of a geographical entity*”.

According to the facts put forward by the Complainant, the Disputed Domain Name has been put up for sale by the Domain name holder from the moment of its acquisition by the latter. Furthermore, the Domain name holder does not seem to have any link or activities developed under the word “ENERBO”,

In addition, the identity of the Domain name holder is not clear. Finally, in addition to not having responded to this Complaint, the Domain Name Holder did not take the opportunity to voluntarily proceed to the execution of the relief sought, *i.e.* the Disputed Domain Name transfer.

In the light thereof, the Third-Party Deciders considers that bad faith, within the meaning of example 3 of Article 10(b) of the General Conditions, is well established.

7 **DECISION**

Pursuant to Article 10, e, of the Policy, the Third-Party Deciders decides to transfer the registration of the domain name "enerbo.be" to the Complainant.

Brussels, 28 October 2019

The Third-Party Decider,


Ignace Vernimme