

vogue.sk recovered in first-ever ADR proceedings in Slovakia

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The first-ever ADR domain name proceedings took place in Slovakia since introduction of the procedure in September 2017. The case involved a dispute over the domain name <vogue.sk>. The complainant - publishing company Les Publications Conde Nast S.A. as the owner of the VOGUE trademarks sought the transfer of the disputed domain name against the respondent - Slovak company SYKORAH s.r.o. The Panel of Experts decided in favour of the complainant and ordered transfer of the domain name.

The disputed domain name was originally registered by an individual who transferred the domain name to the respondent before the ADR procedure was initiated. The previous holder is an executive and shareholder of the respondent. The domain name was previously redirected to a website containing presentation of a fashion line developed by the wife of the previous holder who is also an executive and shareholder of the respondent.

The complainant invoked its prior VOGUE trademarks identical to the disputed domain name and demonstrated their extensive use worldwide, inter alia, by referring to its other domain names containing mark VOGUE. Furthermore, the complainant claimed that the VOGUE trademarks also have a reputation among the relevant part of public in Slovakia and with this respect referred to numerous UDRP decisions, in which panels recognised that VOGUE trademarks are well known or famous.

The respondent failed to respond but in previous correspondence argued that he

had not been aware that registration and use of the disputed domain name could infringe the complainant's VOGUE trademarks and that at the time it was registered the idea was to use the French translation of the word "*fashion*" in the domain name.

Nonetheless, the Panel of Experts held in its decision that the disputed domain name is identical to the VOGUE trademarks, which have sufficient distinctive character with regard to relevant public. The average Slovak consumer is not likely to recognize the meaning of the word mark "vogue" in French or English language. The disputed domain name was at least for a certain period of time used in connection with identical or similar goods and services to those, for which VOGUE trademarks are registered.

The Panel subsequently concluded that the respondent lacked legitimate interest and registered and used the disputed domain name in absence of good faith. The former was implied from the fact that the respondent did not hold any right which could serve as a basis for his legitimate interest in the disputed domain name. With regard to the latter, the Panel concluded that the conduct of the previous owner can be attributed to the respondent due to the existing personal link. Lack of good faith consists in use of the disputed domain name to attract online traffic for the respondent's website that promoted competing goods and services, i.e. for the purpose of gaining unjustified profits from likelihood of confusion between the domain name and the VOGUE trademarks.

Les Publications Conde Nast S.A. was represented by the author. For full text of the decision in Slovak language click here http://adr.eisionline.org/wp-content/uploads/2018/02/Vogue_Rozhodnutie_pub.pdf