

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

UAB “ONLYCHAIN FINTECH LIMITED” v. Almudena Estevez, Vitel 2012, S.L.

Case No. DEUL2024-0001

1. The Parties

The Complainant is UAB “ONLYCHAIN FINTECH LIMITED”, Lithuania, represented by Norton Rose Fulbright LLP, Hong Kong, China.

The Respondent is Almudena Estevez, Vitel 2012, S.L., Spain.

2. The Domain Name, Registry and Registrar

The disputed domain name is <bybit.eu>.

The Registry of the disputed domain name is the European Registry for Internet Domains (“EURid” or the “Registry”). The Registrar of the disputed domain name is Soluciones Corporativas IP, SLU.

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 May 10, 2024. On May 13, 2024, the Center transmitted by email to the Registry a request for registrar verification in connection with the disputed domain name. On May 15, 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 May 17, 2024. In accordance with the ADR Rules, Paragraph A(3)(b)(4), the due date for Response was May 29, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 30, 2024.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on June 5, 2024, 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

According to the information provided by the Registry the language of the registration agreement is Spanish.

Furthermore, the undisputed evidence provided by the Complainant proves that the Respondent posted an advertisement in the English language on a third-party platform.

5. Parties' Contentions

A. Complainant

The Complainant requested that the language of the ADR Proceeding be changed from Spanish to English.

In its request the Complainant pointed out that it is part of the Chinese speaking Bybit group of companies headquartered in Singapore / Hong Kong, China. The in-house legal team of the Complainant and the Complainant's authorized representative in this administrative proceeding do not speak Spanish. Conducting this ADR Proceeding in Spanish would therefore unfairly disadvantage and burden the Complainant and delay the proceedings.

In addition, the Complainant stressed that it is not asking to change the language to Chinese, but is asking for English, i.e. the international language most widely used by the business community worldwide.

Furthermore, the Complainant believes using English in the proceeding will facilitate the dispute resolution process for all. In support of its request, the Complainant alleges that the Respondent's account manager previously posted an advertisement in the English language on a China based mobile phone sourcing platform. This shows that the Respondent is willing and able to communicate in English, while the Complainant does not speak Spanish. As such, the Complainant respectfully submits that this ADR Proceeding be conducted in English, a language that both parties can understand and use.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

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."

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 Spanish.

It is true that the Complainant did not provide any concrete evidence – such as prior correspondence between the parties in English language or content of the website to which the disputed domain name resolves (currently the domain name is parked) – from which it clearly results that the Respondent actually speaks and understands English. However, the Complainant provided undisputed evidence according to which the Respondent posted an advertisement in English on a third-party platform. This may nevertheless be an indication that the Respondent does indeed speak and understand English.

Moreover, the Respondent did not participate in these proceedings and did not file any response. In particular, the Respondent did not object for English to be the language of the proceedings and did not reply to the Complainant's Request. According to Paragraph B(10)(a) of the ADR Rules the Panel may consider this failure to comply as grounds to accept the claims of the other Party. In addition, pursuant to Paragraph B(10)(b) of the ADR Rules the Panel shall draw such inferences from a Party's default as it considers appropriate. Therefore, the Panel considers the Respondent's failure to reply as an affirmation that the Respondent does not object the change of language into English.

In addition, the Panel considers that requesting a translation of the Complaint will cause undue delay of these proceedings and therefore be inequitable for both parties and contrary to the obligation to proceed with these ADR Proceedings with due expedition.

Therefore, having regard to the above circumstances, the Panel accepts in its sole discretion that the language of the ADR Proceeding will be English and therefore different than the language of the registration agreement for the disputed domain name.

7. Decision

For the foregoing reasons, in accordance with Paragraph A(3)(b)(6) of the ADR Rules, the Panel orders that the language of the ADR proceeding shall be English and any future submission by the Parties (including the submission of a new Complaint) regarding the disputed domain name <bybit.eu> shall be made in the language of the ADR Proceeding in accordance with paragraph A(3)(c) of the ADR Rules.

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

/Tobias Malte Müller/

Tobias Malte Müller

Sole Panelist

Date: June 13, 2024