

Dutch cybersquatters and their Polish victims



By Remco van der Kroft

Remco van der Kroft is advocaat (Dutch licensed lawyer) and a partner of BSJP in alliance with Taylor Wessing.

In Amsterdam, squatters like to occupy empty buildings without permission from the owners. In the virtual world, cybersquatters “occupy” unused web-addresses, which morally “belong” to someone else. They register domain names that include valuable phrases, e.g. names of well-known artists, companies or products. The cybersquatter then tries to sell the web-address to the person or company, whose name was used. This malpractice has intensified along with the commencement of registration of “European” names of Internet domains – “eu” - TLD (top level domain).

You have to admit that the scam was well-prepared. They developed a computer program that could register hundreds of names in seconds after the registration of web-addresses with an .eu -extension became possible. The first phase of the registration, the so-called “Sunrise period” was open only for those who had registered trademarks. So they applied for registration of hundreds of trademarks in Benelux, trademarks like “War & Saw”, giving them priority to the web address www.warsaw.eu. The booty includes names of more large cities from all around Europe, e.g. Stockholm, Prague, Frankfurt and even www.usa.eu .

However, registering a domain by a cybersquatter does not mean that it is not possible to regain the domain in a way other than a repurchase. Each person claiming that the registration of the domain name constitutes a breach of such person’s rights, can request transfer of the domain or cancellation of the registration. Violations arising from the registration of the domain names can refer to a number of rights. These rights can include personal rights of a natural person, i.e. surname or alias, company name or name trademark of a company. It’s a common practice of cybersquatters to register generic names as trademarks – usually in the Benelux Office for Industrial Property, where the special accelerated procedure enables registration in a few days. For example, one of the most well-known cybersquatters registered a total of 547 trademarks within the two weeks preceding the commencement of the registration process of “eu” European domains.

Disputes regarding “eu” domain names, according to the regulations of the European Community and arbitration provisions concluded upon the registration of a given domain, these are settled by the arbitration court of the Czech Chamber of Commerce in Prague. A written procedure is obligatory for all disputes pending before this court, whereas the exchange of documents, i.e. filing the claim and statement of claim is conducted by email via the IT platform available on the court’s website. The costs of proceedings range between EUR 1,300 and 3,100, depending on the number of arbitrators. The language of the proceedings is usually the language of the defendant indicated upon the registration of the given domain. The innovative formula of electronic proceedings before the arbitration court in Prague does not mean that the court ignores the formal part of the proceedings. This was proven in the proceedings concerning the domain name “stockholm.eu”, where the city of Stockholm lost the case due to formal errors in the complaint. However, cases can also be won, as the case of my colleague where he regained the eu-extension of for a Polish transport company, and yes this eu-extension had also been registered by the same Dutch cybersquatters.

The winding road to the Euro

In the coming issues, the Bulletin will ask various economists to write about the aspects of the introduction of the euro in Poland. Economist Artur BubiŃo of the BGŻ Bank kicks off with an article about the inflation criteria that have to be met before the introduction of the common currency can take place in Poland.

Poland’s prospects of meeting the inflation criterion

The inflation rate is one of the economic indicators that form one of the convergence criteria, as laid down in the Maastricht Treaty on European Union. Its maximum level during the year preceding the introduction of the single currency is up 1.5 percentage points above the average calculated for three countries with the lowest inflation in the EU. However, it is worth mentioning that the average annual inflation rate is calculated as a 12-month moving average, as measured by the HICP (Harmonized Index of Consumer Prices), which differs slightly from the CPI (Consumer Price Index) calculated by the Polish Central Statistical Office

(difference is in used weights). In addition, the calculation takes into account only the so-called “the best price stability” countries, which means that it does not take into account the countries with a negative rate of inflation.

Calculated in this way average HICP inflation rate for the Poland in October was 3.9% (CPI y/y 3.1%). By contrast, countries with the lowest non-negative inflation, annual average (last 12-month) calculated according to the HICP was successively Spain – 0%, France 0.2%, Belgium 0.4% and Cyprus 0.4%. That results in the arithmetic mean of the three countries with the lowest non-negative inflation increased by 1.5 percentage points and stands at 1.7%. Nevertheless, in 2010 and subsequent years, the EU countries may expect

an increasing rate of inflation, what was also emphasized by the ECB representatives, pointing to the need of a gradual exit from the current expansionary monetary policy. By contrast, in the case of Poland, projections indicate a gradual reduction of inflation rates in 2010 and its potential growth not earlier than in 2011. What is important, a key parameter influencing the rate of inflation in Poland is the exchange rate. Expected appreciation of the Polish zloty may effectively mitigate the inflationary processes. Therefore, keeping inflation rate around the MPC inflation target of 2.5% in the years 2011-2014, when the decision on entry to ERM2 and subsequently to the euro zone is expected, Poland should be able to meet the inflation criterion.

Artur BubiŃo