

ADMINISTRATIVE PANEL DECISION

Telefonaktiebolaget LM Ericsson v. Younes Mersioui, Meilleurs Offres LTD
Case No. D2024-0513

1. The Parties

The Complainant is Telefonaktiebolaget LM Ericsson, Sweden, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Younes Mersioui, Meilleurs Offres LTD, United Kingdom (“UK”).

2. The Domain Name and Registrar

The disputed domain name <ericsson.one> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 2, 2024. On February 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 5, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 6, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 9, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 5, 2024.

The Center appointed Nathalie Dreyfus as the sole panelist in this matter on March 7, 2024. 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 Rules, paragraph 7.

4. Factual Background

The Complainant is the company Telefonaktiebolaget LM Ericsson headquartered in Stockholm, Sweden, a globally recognized leader in the field of communication technology and services. Founded in 1876, the Complainant has played a pivotal role in the evolution of the telecommunications industry by contributing numerous innovations.

The Complainant owns several trademarks around the world, namely:

- UK trademark ERICSSON no. UK00900107003 dated April 1, 1996, covering goods and services in classes 9, 11, 16, 35, 36, 37, 38, 39, 41, and 42.
- UK trademark ERICSSON no. UK00901459130 dated January 13, 2000, covering goods and services in classes 9, 11, 16, 35, 36, 37, 38, 41, and 42.
- UK trademark ERICSSON no. UK00905151006 dated June 2, 2006, covering services in classes 41 and 42.
- United States of America trademark ERICSSON no. 1313196 dated January 8, 1985, covering goods in class 9.
- European Union trademark ERICSSON no. 000107003 dated April 1, 1996, covering goods and services in classes 9, 11, 16, 35, 36, 37, 38, 39, 41, and 42.
- European Union trademark ERICSSON no. 004822219 dated December 21, 2005, covering services in classes 41 and 42.

Furthermore, the Complainant is the owner of the domain name <ericsson.com> registered since July 25, 1989, and used as its primary domain.

The disputed domain name <ericsson.one> was registered on August 14, 2023, and resolves to a blank page.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant asserts that the disputed domain name is confusingly similar to its trademark ERICSSON, as it is incorporated in its entirety. The Complainant also asserts that the generic Top-Level Domain ("gTLD") ".one", may actually increase the likelihood of confusion since "Ericsson ONE" is the name of an internal accelerator for Ericsson employees with pioneering new business ideas.

The Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name. In fact, the Complainant has prior use of its trademark ERICSSON and company name Ericsson. The Respondent is not affiliated or related to the Complainant in any way, or licensed, or otherwise authorized to use the ERICSSON mark in connection with a website, a domain name, or for any other purpose. The Complainant also contends that at the time of filing the Complaint, the Respondent was using a privacy Whois service, which equates to a lack of legitimate interest. According to the Complainant, the Respondent has failed to make use of this disputed domain name's website and has not demonstrated any attempt to make legitimate use of the domain name.

The Complainant alleges that the disputed domain name has been registered in bad faith and that, by registering a domain name that is confusingly similar to the Complainant's trademark and domain name, the Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business.

Finally, the Complainant asserts that the disputed domain name has been used in bad faith. The disputed domain name resolves to a blank page that lacks content, and passively holding a domain name can constitute a factor in finding bad faith registration and use. The Complainant also believes that Internet users can be confused as to the source of the disputed domain name. Furthermore, the Complainant contends that at the time of initial filing of the Complaint, the Respondent had employed a privacy service to hide its identity, which serves as further evidence of bad faith registration and use. Finally, according to the Complainant, by ignoring the attempts to resolve this dispute outside of this administrative proceeding, the Respondent should be considered to have registered and used the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules directs the Panel as to the principles that the Panel is to use in determining the dispute: "A Panel shall decide a complaint on the basis of the statements and documents submitted in accordance with the Policy, these Rules, and any rules and principles of law that it deems applicable".

The Policy provides, at paragraph 4(a), that each of three elements must be made in order for a complaint to prevail:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii. the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Based on the available record, the Panel finds that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy.

The disputed domain name incorporates the Complainant's ERICSSON trademark in its entirety. This is sufficient in itself to establish confusing similarity between the disputed domain name and the Complainant's trademark under the Policy.

Furthermore, the addition of ".one", which is a gTLD of general application, is usually not taken into account for the purposes of determining confusing similarity under the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.03.0](#)"), section 1.11.

On this basis, the Panel finds that the disputed domain names are either identical or confusingly similar to the Complainant's trademarks.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the burden of production of evidence shifts to Respondent. The Respondent does not own any rights to the ERICSSON trademarks, and the Complainant has never authorized or permitted the Respondent to use the ERICSSON trademark or use it to

register any domain name consisting of the ERICSSON trademark (*J Barbour & Sons LTD v. Whois Privacy Pty Ltd./Quantec, LLC. Novo Point, LLC*, WIPO Case No. [D2013-0283](#)).

The disputed domain name is not actively used, as it simply leads to a blank page that lacks content. Therefore, there is no evidence of any use of, or preparations to use, the disputed domain name in connection with a bona fide offering of goods or services, nor of any legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. Given that the disputed domain name is identical to the Complainant's famous trademark, the composition of the disputed domain name is such to carry a high risk of implied affiliation that cannot constitute fair use since it effectively suggests sponsorship or endorsement by the Complainant, contrary to the fact. [WIPO Overview 3.0](#), section 2.5.1.

The Respondent had the opportunity to provide its arguments in support of its rights or legitimate interests in the disputed domain name. However, by failing to file a formal response, the Respondent has missed this opportunity and the Panel is entitled to draw such inferences from the Respondent's failure as it considers appropriate in accordance with paragraph 14 of the Rules.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant has established that the disputed domain name was registered and is being used in bad faith.

The Complainant has established that the registered ERICSSON trademarks long predated the registration of the disputed domain name. The Respondent reproduced in its entirety the Complainant's trademark ERICSSON in the disputed domain name. The confusing similarity in this choice demonstrates that the Respondent was fully aware of the fact that the disputed domain name incorporated a well-recognized trademark. Moreover, the registration of the disputed domain name in the ".one" gTLD does not seem purely coincidental given that "Ericsson ONE" is the name of an internal accelerator for Ericsson employees with pioneering new business ideas.

The Panel is of the opinion that the Respondent registered the disputed domain name in bad faith.

The disputed domain name resolves to a blank page that lacks content and that could cause confusion among Internet users as to the origin and purpose of the disputed domain name, and could be the source for phishing or identity fraud. From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding (*Bouygues v. Eric Bouret*, WIPO Case No. [D2020-3393](#)).

Moreover, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. (*International Olympic Committee (IOC) v. Registration Private, Domains By Proxy, LLC / Thomas Clohessy, Spirited Movie Co*, WIPO Case No. [D2022-2383](#)).

In this case the Complainant's ERICSSON mark is highly distinctive. The Respondent has failed to submit a response or to provide any evidence of the actual or contemplated good faith use of the disputed domain name. Further, the Respondent had taken active steps to conceal his true identity through the use of a privacy service at the time of filing the Complaint. Similarly, even after the Registrar's disclosure of the underlying contact details for the Respondent, the mail courier was ultimately unable to deliver the Center's written communication to the details disclosed, reflecting the Respondent's likely use of incomplete or false

contact details. Finally, without the Complainant's express consent and authority, there is no plausible use to which the disputed domain name could be put in good faith, noting that the Complainant controls international use of the mark ERICSSON and already operates a website at the <ericsson.com> domain name.

Also, in the decision *Confédération Nationale du Crédit Mutuel v. Nicola Bazar*, WIPO Case No. [D2013-1572](#), the Panel found that:

"Respondent knew or should have known that the Domain Name included Complainant's CREDIT MUTUEL well-known trademark. [...] However, passive holding of the website does not prevent the Panel from finding registration and use in bad faith. The Panel further notes that Respondent undeveloped use of the website at the Domain Name which incorporates Complainant's trademark in its entirety indicates that Respondent possibly registered the Domain Name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, as per paragraph 4(b)(iv) of the Policy."

Therefore, the Panel finds that Respondent could not have registered the disputed domain name without the intention to profit from the likelihood of confusion it created with the Complainant's prior trademark.

The Panel is of the opinion that the Complainant has established the third element of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <ericsson.one> be transferred to the Complainant.

/Nathalie Dreyfus/

Nathalie Dreyfus

Sole Panelist

Date: March 21, 2024