

ADMINISTRATIVE PANEL DECISION

Elkjøp Nordic AS v. Privacy Service provided by Withheld for Privacy EHF /
Jessica Williams
Case No. D2022-1514

1. The Parties

The Complainant is Elkjøp Nordic AS, Norway, represented by Zacco Sweden AB, Sweden.

The Respondent is Privacy Service provided by Withheld for Privacy EHF, Iceland / Jessica Williams, United States of America.

2. The Domain Name and Registrar

The disputed domain name <elgigantensupport.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 27, 2022. On April 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 27, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on April 28, 2022, 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 amendment to the Complaint on the same day.

The Center verified that the Complaint together with the amendment to the 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 May 6, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 26, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 30, 2022.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on June 8, 2022. 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, Elkjøp Nordic AS, is a Norwegian company group founded in 1962. The Complainant operates electronics retailer in the Nordic countries, with retail businesses established in Norway, Sweden, Denmark and Finland, and franchise operations on Greenland, Iceland and the Faroe Islands.

Elkjøp Nordic AS was established in Denmark and Sweden in 1993, as Elgiganten A/S and Elgiganten Aktiebolag, respectively.

Elkjøp Nordic AS is part of Currys Group Ltd. (formerly known as DSG Retail Ltd.), a multinational consumer electrical and mobile retailer and services company, employing over 42,000 people in nine countries.

Elgiganten A/S, a member of the corporate group, is the owner of the trademark ELGIGANTEN registered in the European Union (reg. no. 005908678, registered on May 30, 2008).

The Domain Name was registered on April 4, 2022, and used to redirect to the Complainant's main website "www.elgiganten.se". Currently the Domain Name does not resolve to an active website.

5. Parties' Contentions

A. Complainant

The Complainant is the owner of the trademark ELGIGANTEN (word and figurative mark), which has been registered and used in the European Union for a long period of time. The Complainant also owns several domain names that incorporate the ELGIGANTEN mark, such as <elgiganten.com>, <elgiganten.dk> and <elgiganten.se>.

The Domain Name includes the term "elgiganten", which is identical to the Complainant's word mark ELGIGANTEN. The addition of the word "support" at the end of the Domain Name does not prevent a finding of confusing similarity.

To the Complainant's knowledge, no license or authorization of any other kind has been given by the Complainant to the Respondent to use the trademark ELGIGANTEN, and the Complainant has found no information indicating that the Respondent is somehow trading under a name corresponding to the Domain Name.

Furthermore, the Respondent is not, based on the available information, an authorized representative of the Complainant's products or services and has never had a business relationship with the Complainant. No evidence has been found indicating that the Respondent is using the term "elgiganten" as a company name or that it has any other legal rights to the term.

The Respondent is not using the Domain Name in connection with a *bona fide* offering of goods or services. Instead, the Respondent has intentionally chosen the Domain Name based on the Complainant's trademark and fame.

The Domain Name redirects to the website "www.elgiganten.se".

This redirection of the Domain Name to the Complainant's domain name <elgiganten.se> without the Complainant's authorization must be considered as bad faith use. The Complainant is concerned that by

redirecting to the Complainant's website, the Respondent may have fraudulent intentions, and therefore argues that the Respondent is actively attempting to create the impression that the Domain Name is somehow connected to the Complainant.

The Respondents use, and registration, of the Domain Name makes it even more obvious that the Respondent must have been fully aware of the Complainant and the Complainant's mark at the time of registration.

Accordingly, the Respondent cannot claim to have been unaware of the Complainant's trademark when registering and using the Domain Name.

The Complainant request the transfer of the Domain Name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy states that a respondent is required to submit to a mandatory administrative proceeding in the event that the complainant asserts to the applicable provider, in compliance with the Rules, that:

- (i) the 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 domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has produced registration certificates demonstrating that, through its subsidiary, it has rights in the ELGIGANTEN word mark. See section 1.4 of the [WIPO Overview 3.0](#).

The Panel finds that the Complainant is considered to have trademark rights in ELGIGANTEN for purposes of standing to file a UDRP complaint as evidenced by the trademark registration certificates submitted with the Complaint, as mentioned above.

The Domain Name is not identical to the Complainant's mark since it adds the descriptive word "support". Here the addition to the Complainant's trademark ELGIGANTEN of the word "support" does not prevent a finding of confusing similarity.

Therefore, the Panel finds that the Complainant has satisfied the first requirement of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that the Respondent has rights or legitimate interests in the Domain Name:

- (i) before any notice to the respondent of the dispute, the use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence of the existence of any of those rights or legitimate interests. The Complainant has not authorized, licensed, or permitted the Respondent to register or use the Domain Name or to use the trademark.

The Complainant has prior rights in the trademarks, which precede the Respondent's registration of the Domain Name.

The Complainant has therefore established a *prima facie* case that the Respondent has no rights and legitimate interests in the Domain Name and thereby shifted the burden of production to the Respondent.

The Respondent has failed to show that it has acquired any trademark rights in respect of the Domain Name or that the Domain Name is used in connection with a *bona fide* offering of goods or services. In fact, the Domain Name used to redirect to the Complainant's websites and therefore appears to reinforce the Internet user's impression that the Domain Name belongs to the Complainant. .

Therefore, the Panel finds that the Complainant has satisfied the second requirement of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant must prove both that the Domain Name was registered and used in bad faith.

The Complainant's allegations with regard to the Respondent's registration and use of the Domain Name in bad faith have been considered by the Panel. The Respondent has not contested these allegations.

The Panel accepts the Complainant's submission that, by using the Domain Name as described above the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of that website. In accordance with paragraph 4(b)(iv) of the Policy, this shall be evidence of both the registration and use in bad faith of the Domain Name for the purposes as set out in paragraph 4(a)(iii) of the Policy. The fact that the Domain Name no longer resolves to an active website does not alter this finding.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(iii) 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 Domain Name <elgigantensupport.com> be transferred to the Complainant.

/Pablo A. Palazzi/

Pablo A. Palazzi

Sole Panelist

Date: June 22, 2022