

Alternative Dispute Resolution Proceeding

Case No. DSE2022-0002

1. Petitioner

The Petitioner is VOI Technology AB of Sweden, represented by Brimondo AB, Sweden.

2. Domain Holder

The Domain Holder is Domain Department, Arcanite Media Ltd., of Belize.

3. Domain Name and Procedural History

This Alternative Dispute Resolution proceeding relates to the domain name <voi.se>.

This Petition was filed under the Terms and Conditions of registration (the “.se Policy”) and the Instructions governing Alternative Dispute Resolution proceeding for domain names in the top-level domain .se (the “.se Rules”).

The WIPO Arbitration and Mediation Center (“the Center”) verified that the Petition satisfied the formal requirements of the .se Policy and the .se Rules. In accordance with Section 13 of the .se Rules, the Center formally notified the Domain Holder of the Petition on January 19, 2022. The Center granted two extensions for the Domain Holder to file a Response until February 27, 2022. The Domain Holder submitted a late response on February 28, 2022.

The Center appointed Johan Sjöbeck as the sole Arbitrator in this matter on March 1, 2022. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with Section 1 of the .se Rules.

4. Factual Background

The Petitioner is the owner the following trademark registrations:

VOI (word), European Union Trade Mark (EUTM) registration with registration number 017933538, filing date July 23, 2018, and registration date October 5, 2019.

VOI (fig), European Union Trade Mark (EUTM) registration with registration number 018376340, filing date

January 14, 2021, and registration date May 4, 2021.

The Petitioner's tradename is VOI Technology AB with Swedish company registration number 559160-2999.

The disputed domain name <voi.se> was registered by the Domain Holder on December 19, 2021, and does not resolve to an active website.

5. Claim

The Petitioner has requested that the disputed domain name <voi.se> shall be transferred from the Domain Holder to the Petitioner.

6. Parties' Contentions

A. Petitioner

The Petitioner, a Swedish mobility company founded in 2018, owns two VOI trademark registrations that are valid in Sweden. The Petitioner provides rental e-scooter services via mobile phone applications in Sweden. The disputed domain name <voi.se> is identical to the Petitioner's trademark, which is distinctive, memorable and recognized. The disputed domain name is formulated by the complete word of the Petitioner's trademark with the addition of the country code Top Level Domain ("ccTLD") ".se". The addition lacks distinctiveness and is not sufficient to give the disputed domain name an individual meaning.

The disputed domain name was registered on December 19, 2021, which is two years after the Petitioner registered the VOI trademark. The Domain Holder knew or should have known of the distinctive and recognized VOI trademark in the mobility industry. The registration of a domain name which contains a distinctive and recognized trademark constitutes bad faith registration and use per se. The disputed domain name does not resolve to an active website. However, the term bad faith "use" does not require an active act on the part of the Domain Holder. Instead, passively holding a domain name can constitute a factor in finding bad faith use.

The Petitioner is intending to use its trademark in a corresponding domain name in the ccTLD ".se" but the Domain Holder's registration prevents the Petitioner from doing this. Moreover, the Domain Holder has previously been engaged in at least five ccTLD domain name disputes: *Swedish Match North Europe AB v. Arcanite Media Ltd., Domain Department*, WIPO Case No. [DSE2019-0055](#); *Guideline AS v. Domain Department, Arcanite Media Ltd.*, WIPO Case No. [DSE2018-0015](#); *MM Sports AB v. Arcanite Media Ltd.*, WIPO Case No. [DSE2017-0031](#); *Andrey Ternovskiy dba CHATROULETTE v. Arcanite Media Ltd.*, WIPO Case No. [DRO2019-0003](#); and *Facebook Inc. v. Bogdan Surdu Arcanite Media Ltd.*, [DRO2019-0001](#). In these cases, the domain names were transferred from the Domain Holder. This ascertains the bad faith intention of the registration and use of the disputed domain name.

The Petitioner has no relationship with the Domain Holder. The Domain Holder has no rights or justified interest in the disputed domain name. There is no evidence that the Domain Holder owns any trademark or right that reflects the disputed domain name at issue or even the term "voi". There is no evidence that the Domain Holder has used the disputed domain name in connection with a *bona fide* offering of goods or services. The Domain Holder is not sponsored by or legitimately affiliated with the Petitioner in any way and has not been given permission by the Petitioner to use a domain name that is identical to the Petitioner's trademark.

The Domain Holder is not commonly known by <voi.se> or any other use of the term "voi" and has not acquired any trademark or service right similar to the disputed domain name. For example, by searching Google for <voi.se> or "voi" there is no information nor even indication of the terms related to the Domain Holder, but instead the results show information related to the Petitioner. This fact asserts even further the

strength of the distinctiveness of the Petitioner's trademark and that the Domain Holder knew about the recognized brand of the Petitioner.

B. Domain Holder

The Domain Holder was incorporated as a new holding company in July 2014, under the laws of Belize and is the parent company to a group of companies that has been actively involved in the domain name industry and Internet businesses since 2003. The Domain Holder is primarily an online marketing company providing its clients with domain names, directs traffic, and leads in a variety of sectors, including fashion, finance, gaming, travel, and more. The Domain Holder is primarily focused in Europe with its largest operations in Denmark, Germany, Italy, France, Spain and in the United Kingdom. The list of clients includes global and well renowned companies such as, Airbnb, Booking.com, Google, Hotels.com, Gamestop, Bet365, Betfair, and Pokerstars. The Domain Holder has 3 full-time employees and employs 14 external full-time consultants in the Nordics, Eastern Europe, Central America and South America.

The Domain Holder is active within four business areas:

(i) Domains and Traffic

The Domain Holder specializes in valuable generic domain names and is primarily involved in acquisitions and the management of those assets. The Domain Holder has actively been acquiring generic domain names since 2003, primarily through auctions, direct contact and so called "Backorder Services" such as the "Waiting list" service provided by the .DK Registry (DK Hostmaster) and by several accredited .SE registrars, such as Hexonet, Indukon, Rymdweb and Weblovers. The Domain Holder actively scans domain drop lists under 18 different TLD's and domain name auctions on several platforms such as GoDaddy and Sedo. The Domain Holder uses a self-developed algorithm based on over 30 variables to determine the value of a generic domain name. These variables include but are not limited to; dictionaries, Google search volumes, article statistics, cross checking of TLD availability, etcetera. Today, the Domain Holder directly or indirectly owns more than 5,000 generic domain names under 27 different TLD's. The vast majority of these domain assets are owned as long-term investments to be developed over the coming decades.

(ii) Catchy and brandable domain names

Some of the Domain Holder's acquired domain names are developed into catchy and branded assets that can be sold or rented out. They typically include a domain name and a logo prepared by our external consultants.

(iii) E-mail services

Some of the acquired domain names are developed into "rent an e-mail" services. This means that consumers can pay a small sum on an annual basis to use the e-mail of a certain domain name as it is more memorable than longer domain names or Gmail for example. The e-mail service is most used for short domain names and domain names with surnames, for example: <aq.se>, <bel.se>, <zap.se>, <keller.se>, <stenlund.se>, <horberg.se>, <naslund.se>.

(iv) Lead Generation

The Domain Holder also operates hundreds of developed content-rich websites, such as comparison websites, community websites, guides and news sites. These are informational sites about various topics within fashion, finance, gaming, travel and more. The Domain Holder also owns and operates several social media accounts on platforms such as Facebook, Instagram and TikTok. These assets are primarily monetized through referring potential customers, so-called affiliate marketing, to clients within the abovementioned sectors.

(v) Short domain names

The Domain Holder claims that generic and short domain names are considered valuable assets and have been bought by investors for over 20 years. Most two- and three-letter domains have been registered for 15+ years. Domain names in most jurisdictions and under most top-level domains are registered on a first-come first-served basis. The Domain Holder has a portfolio of 1,000+ two- and three-letter domain names

under several top-level domains, including the .se ccTLD. These domain names are registered and operated solely based on their two- and three-letter characteristics. Recent acquisitions/registrations in 2022 includes for example: <la.se>, <cbt.it>, <vsp.fr>, <rv.es>, <gam.se>, <cap.pe>, <voi.se>, <oea.it>, <vbe.dk> and <odh.dk>. These short acronyms often have dozens or even hundreds of meanings and cannot be deemed to be exclusive to any single party.

The UDRP panel in *Grupo Nacional Provincial, S.A. v. Privacydotlink*, WIPO Case No. [D2021-1136](#), further elaborate on the topic: “The Panel considers a domain name comprising a three-letter combination could readily be purchased for its inherent value as a general acronym and sees no clear evidence on the record in this case to suggest that was not the case. As a general rule it is likely that in such cases the registration will be for *bona fide* purposes. That would seem to be so as a matter of common sense and it is supported by previous UDRP decisions dating from the very beginning of the UDRP.”

Thus, for example in *Kis v. Anything.com Ltd.*, WIPO Case No. [D2000-0770](#), the legitimate interest in short letter domain names was confirmed by that panel’s statement that: “The Domain Name at issue here is a three-letter second-level domain...”, “All or nearly all of the three-letter names have long been taken; respondent itself holds a number of other short domain names”, “Respondent appears to have selected the Domain Name ‘kis.com’ because of its length, rather than because it corresponds to complainant’s trademark -- indeed, it seems unlikely that Respondent was even aware of complainant’s trademark when it selected the domain name.”

The Domain Holder is in the business of monetizing short generic domain names. A number of previous UDRP panels have found that as long as this business is not infringing on a Petitioner’s rights in a mark, the UDRP policy allows registration and use of domain names for this purpose. See *e.g.*, *R.V. Kuhns & Associates, Inc. v. Gregory Ricks / Whois Privacy Corp. / Domain Administrator*, WIPO Case No. [D2014-2041](#). See also *TransContinental Records, Inc. v. Compana LLC*, WIPO Case No. [D2002-0105](#); *Banca Monte dei Paschi di Siena S.p.A v. Charles Kirkpatrick*, WIPO Case No. [D2008-0260](#); *Dumarkaya Yapi Malzemeleri v. Name Administration Inc. (BVI)*, WIPO Case No. [D2015-1757](#); *Instrumentation Northwest, Inc. v. INW.COM c/o Telepathy, Inc.* WIPO Case No. [D2012-0454](#); and *R.V. Kuhns & Associates, Inc. v. Gregory Ricks*, WIPO Case No. [D2014-2041](#) all to similar effect.

Similar references have been made by panels in a number of decisions under the .se Policy for three-letter domain names, where the registration and use of short domain names by domain name owners have been considered legitimate. See *e.g.* *Mirio Limited v. Insurance Auto Auctions*, WIPO Case No. [DSE2021-0010](#); *Mirio Limited v. XER AB*, WIPO Case No. [DSE2020-0026](#); *Name Navigation AB v. Universitetsdjursjukhuset vid SLU*, ATF#901; *Name Navigation AB v. NDP - Nordisk Drog Prevention AB*, ATF#898; and *Name Navigation AB v. Artistic Plastic Surgery Sweden AB*, ATF#766.

The disputed domain name <voi.se> was initially noticed by the Domain Holder in November 2021 when it was not renewed by the previous domain name registrant. The previous registrant registered the disputed domain name in 2013. The Domain Holder is not affiliated with the previous registrant and does not know who the previous registrant is. As previously mentioned, the Domain Holder actively searches for short domain names as they are deemed to have potential long-term value. The Domain Holder started monitoring the potential renewal process and registered the disputed domain name on December 19, 2021, through one of its .SE accredited registrar partners immediately when it became available. The Domain Holder does not have the capacity to develop all domain assets at the same time. Some domain names are programmatically designed with relevant content while some are kept undeveloped until the Domain Holder has had the time to evaluate the best possible use of the asset. The backlog of evaluating newly acquired domain names is currently long due to Covid-related issues among some of the external consultants. Consequently, as the disputed domain name was acquired recently, it is still in the evaluation backlog.

On December 20, 2021, one day after the disputed domain name was registered, a representative of the Petitioner approached a partner to the Domain Holder with the purpose of acquiring the rights to the disputed domain name. The Domain Holder responded that the disputed domain name was not for sale. The Petitioner’s business and reputation appears to be entirely confined to Sweden and the Domain Holder,

being based in Belize with operations throughout Europe and Central America, had no knowledge of the Petitioner when it acquired the disputed domain name. The Petitioner cannot be considered to have a unique right to a three-letter domain name. The Petitioner owns European Union trademarks in classes 9, 12 and 39, classes that the Domain Holder has no interest in. Furthermore, there are currently almost 2,000 European Union trademarks that includes the term “voi”. The term “voi” is a three-letter generic acronym with multiple uses across the globe. The term “voi” is registered under most top-level domains, including all European ccTLDs and the Petitioner does not own any of these.

As previously mentioned, the Domain Holder has a large portfolio of two and three-letter domain names as they have an inherent value because they are short and memorable. Furthermore, two- and three-letter acronyms have diverse commercial uses and do not belong exclusively to one company. The term “voi” is a non-distinctive three-letter acronym which has multiple possible uses, such as the well-known terms “Value of Investment”, “Volumes of Interest” and “Verification of Income”. The Domain Holder registered the disputed domain name for its value as an acronym and not because of any possible connection with the Petitioner. The right to register such acronyms as domain names cannot be limited.

Despite holding a large portfolio of two- and three letter domain names for over 15 years, the Domain Holder has never been found in bad faith by a panel with respect to any of those two- and three-letter domain names. These favorable decisions that the Domain Holder has experienced in prior cases under the UDRP have been an important factor for the Domain Holder to continue investing large sums in acquiring two- and three-letter domain names under “.com” and various ccTLDs across the globe. The Domain Holder purchased the disputed domain name for over EUR 1,000 in December 2021, and just recently, the Domain Holder paid over EUR 5,000 for the domain name <la.se>. The Domain Holder has as much right as anyone else to use expressions such as acronyms, generic, dictionary words, or other domain names made up from a small number of letters.

The Domain Holder registered the disputed domain name for its generic nature without intent of capitalizing on the Petitioner’s trademark. The Domain Holder has not used the disputed domain name in any infringing way. The Domain Holder has not, do not, and will not attempt to trade off the Petitioner’s name or registered trademarks. There is no evidence to suggest that the disputed domain name was registered with any knowledge of the Petitioner. The Petitioner’s submissions in relation to this element consist of several brief and general statements which are wholly unsupported by any evidence. The Petitioner has not met its burden of making out a *prima facie* case that the Domain Holder lacks rights or legitimate interests in the disputed domain name.

There is no evidence to suggest that the disputed domain name has been registered or used in bad faith. It should be abundant that the Domain Holder purchased the disputed domain name because of its value as a generic three-letter acronym and not because of any connection with the Petitioner. The Petitioner has not provided any evidence to support the allegations against the Domain Holder. Even in cases of domain name holder’s default, panels have held that wholly unsupported conclusory allegations may not be sufficient to support a Petitioner’s case. The disputed domain name has not been running on active name servers since it was registered as it is currently in an evaluation stage. The Domain Holder has not used the disputed domain name in any way that could be deemed to mislead any visitors to believe that the disputed domain name is actually owned by the Petitioner. The disputed domain name has not been used in a way that it damages the Petitioner, its potential trademarks or brands. Further, the Petitioner does not provide any evidence that not owning the generic domain name has resulted in any direct damages to the Petitioner or its potential business.

The disputed domain name was registered based on its length. The first time the Domain Holder heard about the Petitioner was on December 20, 2021, when the Petitioner asked to buy the disputed domain name. There is absolutely no evidence that the Domain Holder had the Petitioner or its trademark in mind when registering the disputed domain name. The Petitioner has not met its burden of making out a *prima facie* case that the Domain Holder has registered or used the disputed domain name in bad faith.

The Domain Holder is of the opinion that the Petitioner has filed the Complaint in bad faith in an attempt to

deprive the Domain Holder of the disputed domain name and that is a matter of "Reverse Domain Name Hijacking". Following the e-mail correspondence between representatives from the Petitioner and the Domain Holder, it must be beyond doubt that the Petitioner knew that the Domain Holder had a legitimate interest in the disputed domain name. The Petitioner left out material information to the Arbitrator, including but not limited to the fact that the Petitioner initially tried to acquire the disputed domain name from the Domain Holder the day after it was registered. When informed that the disputed domain name was not for sale, the Petitioner used the ADR proceeding as a "plan B" to acquire it. The Petitioner has based its case entirely upon conclusory allegations unsupported by any evidence.

7. Discussion and Findings

A domain name may, in accordance with the .se Policy Paragraph 7.2, be deregistered or transferred to the party requesting dispute resolution proceedings if all of the following three conditions are fulfilled:

1. The disputed domain name is identical or similar to a name which is legally recognized in Sweden and to which the party requesting dispute resolution can prove its rights, and
2. The disputed domain name has been registered or used in bad faith, and
3. The Domain Holder has no rights or justified interest in the disputed domain name.

All three conditions must be met in order for a petitioner to succeed in its action.

A. The Domain Name is identical or similar to a name which is legally recognized in Sweden and to which the Petitioner can prove its rights

The Petitioner is, according to the submitted evidence, the owner of the registered trademark VOI. The disputed domain name <voi.se> incorporates the VOI trademark in its entirety.

Having the above in mind, the Arbitrator concludes that the disputed domain name <voi.se> is identical or similar to the Petitioner's trademark VOI and that the Petitioner has proved the first requirement under Section 7.2 of the .se Policy.

B. The Domain Name has been registered or used in bad faith

The Petitioner argues that the Domain Holder registered the disputed domain name <voi.se> in bad faith with the Petitioner's VOI trademark and business in mind as the Petitioner has not licensed, approved or consented in any way to the Domain Holder's use of the trademark in the disputed domain name. Moreover, the Petitioner claims that the Domain Holder's registration of the disputed domain name prevents the Petitioner from using its trademark in a corresponding domain name under the .se ccTLD.

On the other hand, the Domain Holder vigorously maintains that it had no knowledge of the Petitioner when registering the disputed domain name and that it was registered solely for its inherent value as a general and generic three-letter acronym. There is no evidence on the record that demonstrates that the Domain Holder set out to target the Petitioner or that the Domain Holder purchased the disputed domain name with the intention to sell it to the Petitioner or its competitors. Instead, the circumstances of the case indicate that the Domain Holder, who appears to be engaged in the business of acquiring short domain names, registered the disputed domain name for its value as a three-letter acronym with multiple possible uses and many potential meanings without targeting the Petitioner and its trademark. The Domain Holder's acquisitions of other similar two- and three-letter domain names appears to be consistent with the Domain Holder's described business model and explanation. Thus, in the circumstances of this case and in the absence of any evidence to the contrary, the Domain Holder's explanation for the acquisition of the disputed domain name appears credible. Consequently, the Arbitrator finds, based on the balance of probabilities and the evidence in the case, that the Petitioner has failed to prove that the Domain Holder registered the disputed domain

name with the Petitioner's trademark rights in mind and with the intention to trade on the same.

Although it has been argued by the Petitioner that the Domain Holder has used the disputed domain name in bad faith, there is no evidence in the case demonstrating that the disputed domain name has actively been used in any way since the date of registration.

Having the above in mind, the Arbitrator concludes that the Petitioner has not demonstrated that the Domain Holder has registered or used the disputed domain name in bad faith as described in the .se Policy.

C. The Domain Holder has no rights or justified interest in the Domain Name.

Given that the previous prerequisite is not met, the Petitioner's request for transfer of the disputed domain name cannot be granted and consequently there is no need for an assessment as to whether or not the Domain Holder has any rights or justified interest in the disputed domain name.

In conclusion, it should be addressed that the Domain Holder submitted that the Petition amounts to a case of Reverse Domain Name Hijacking ("RDNH"), *i.e.*, when a complaint is brought in bad faith and constitutes an abuse of the administrative proceeding. Although RDNH occurs in other dispute resolution procedures, such as the Uniform Domain Name Dispute Resolution Policy ("UDRP"), RDNH is not applicable under the .se Policy.

8. Decision

On the basis of the foregoing, the Petitioner's request for transfer of the disputed domain name <voi.se>, is denied.

9. Summary

The Arbitrator concludes that the disputed domain name <voi.se> is confusingly similar to the Petitioner's trademark VOI and that the Petitioner has proven the first requirement under Section 7.2 of the .se Policy. The Arbitrator furthermore concludes that the Petitioner has not proven that the disputed domain name has been registered or used in bad faith as described in the second requirement under Section 7.2 of the .se Policy.

Johan Sjöbeck

Date: March 19, 2022