

Alternative Dispute Resolution Proceeding

Case No. DSE2022-0003

1. Petitioner

The Petitioner is Neo4j Sweden AB of Sweden, represented by Synch Advokat AB, Sweden.

2. Domain Holder

The Domain Holder is R.L., of Sweden.

3. Domain Name and Procedural History

This Alternative Dispute Resolution proceeding relates to the domain name <neo4j.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 February 18, 2022. The Domain Holder did not submit any response within the deadline and, accordingly, the Center notified the Domain Holder's default on March 22, 2022. The Domain Holder submitted informal communications to the Center on March 24, 2022.

The Center appointed Per Carlson as the sole Arbitrator in this matter on March 30, 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 a company providing graph technology. The Petitioner is the holder of the European Union trademark (“EUTM”) NEO4J (registration No. 017550484) registered on May 8, 2018, (filing date December 1, 2017) for goods in class 9 and services in classes 35, 41 and 42 of the Nice Classification. The Domain Holder is the holder of the domain name <neo4j.se>, registered on February 27, 2014.

5. Claim

The Petitioner has requested that the disputed domain name <neo4j.se> be transferred to the Petitioner.

The Domain Holder has contested the request.

6. Parties' Contentions

A. Petitioner

In support of its claim the Petitioner has relied on the grounds, that the disputed domain name <neo4j.se>, is identical or similar to the Petitioner's EUTM NEO4J, that the disputed domain name has been registered or used in bad faith, and that the Domain Holder has no rights or justified interest in the disputed domain name. In substance the Petitioner has submitted the following.

The Domain Name is identical or similar to the trademark NEO4J

The Petitioner and the companies in the same company group, e.g. Neo4j, Inc. (earlier Neo Technology) is the leader in graph technology. It enables organizations to unlock the business value of connections, influences and relationships in data through new applications that adapt to changing business needs, and by enabling existing applications to scale with the business. The company group is headquartered in San Mateo, United States of America, and has offices in Sweden, Germany, Singapore, and the United Kingdom. The Neo4j company group of companies is below together referred to as the "Company Group".

The Petitioner is the registered owner of a number of trademarks consisting of NEO4J in the European Union, e.g. the European Union word mark No. 017550484 registered for goods and services in class 9, 35, 41, and 42. Furthermore, the Company Group is the registered owner of the domain name <neo4j.com>, registered on May 8, 2009, and the Swedish company name "Neo4j Sweden AB" was registered on December 14, 2017. The Company Group has however used "NEO4J" as the name for its product since 2000.

The disputed domain name <neo4j.se> is identical and thus confusingly similar to the Petitioner's proprietary trademarks and domain names as it reproduces the NEO4J trademark entirely. The country code Top-Level Domain ("ccTLD") ".se" does not give any distinctiveness to the domain name and shall not be included in the comparison.

The Domain Name has been registered or used in bad faith

The disputed domain name <neo4j.se> was registered on February 27, 2014, i.e. after the Company Group's registration of the domain name <neo4j.com>. The Petitioner has not licensed or otherwise permitted the Domain holder to use any of its trademarks or any variations thereof, or to register or use any domain name incorporating any of those trademarks or any variations thereof.

The disputed domain name is currently used to redirect visitors to "https://aws.amazon.com/neptune/". Amazon's products and services are in direct competition with the Petitioner. Thus, the disputed domain name must be considered used in bad faith to confuse visitors to think that there is a link between the Petitioner and Amazon, which is not the case, and/or to mislead visitors that wanted to buy products or services from the Petitioner to instead do the same with Amazon instead. The Petitioner suspects that the use is made in order to drive traffic to/via the site for economic gain. This use of the domain name is damaging the Petitioner.

The Domain Holder has reached out to the Petitioner (through its representative) indicating that a third party has reached out to it to buy the disputed domain name <neo4j.se>. The Domain Holder has also encouraged the Petitioner to provide it with a serious offer if the Petitioner wants to become the owner of the disputed domain name. The Petitioner considers this a clear attempt to sell the domain name to the trademark holder,

i.e. the Petitioner, which is a clear indication of use of the domain name in bad faith.

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

As far as the Petitioner is aware, the Domain Holder has never been known under the disputed domain name <neo4j.se> or the trademark NEO4J. As mentioned, the Petitioner has not licensed or otherwise permitted the Domain Holder to use any of its trademarks or any variations thereof or to register or use any such trademarks in the domain name.

The Petitioner has on January 19, 2022, sent a warning letter in which the Domain Holder has been informed about the Petitioner's intentions to proceed with Alternative Dispute Resolution unless the Domain Holder voluntarily transfer the disputed domain name <neo4j.se> to the Petitioner. Despite this, the Domain Holder has not replied to the letter. Thus, The Petitioner considers this as a clear indication of that the Domain Holder has no legitimate interest to the disputed domain name. Furthermore, the Domain Holder has failed to provide any evidence to prove it has any rights or legitimate interest in respect of the disputed domain name.

B. Domain Holder

The Domain Holder has not contested that the disputed domain name <neo4j.se> is identical or similar to the Petitioner's EUTM. But the Domain Holder has, as it must be understood, contested that the disputed domain name <neo4j.se> has been registered or used in bad faith, as well as that the Domain Holder has no rights or justified interest in the domain name. The Domain Holder has submitted the following.

"I have had no intention to sell this domain, I've had it for 8+ years don't you think I would have made a move earlier then?

Also, if the company has not contacted me for 8 years so I can argue that they do not really want the domain either. All I said is that even if I don't want to sell the domain, IF they want something that I own, I want them to make a serious offer, because why would I give away something I've had for so many years for free?

I haven't had the domain for sale or contacted a single person to sell it, you contacted ME!"

7. Discussion and Findings

In accordance with article 7.2 of the .se Policy, a domain name may be transferred to the party requesting dispute resolution proceedings, if the following three conditions are fulfilled:

1. the domain name is identical or similar to *inter alia* a trademark, which is legally recognized in Sweden and to which the party requesting dispute resolution can prove its rights, 2. the domain name has been registered or used in bad faith; and 3. the domain holder has no rights or justified interest in the domain name.

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 the holder of the EUTM NEO4J. An European Union trademark has a unitary character and equal effect throughout the European Union. Thus, the Petitioner's trademark NEO4J is legally recognized in Sweden. The disputed domain name <neo4j.se> is identical with the Petitioner's said trademark NEO4J.

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

It is true, that the disputed domain name <neo4j.se> was registered more than three years before the filing of the trademark NEO4J. But it is clear from the record, that the sign NEO4J was used on the Internet at the point in time of the registration of the domain name, *e.g.* in the domain name <neo4j.com>. In view of the originality of the sign "neo4j", used by the Petitioner, the disputed domain name <neo4j.se> can hardly have been created without the Petitioner's sign as a model (*cf. res ipsa loquitur*).

In any case, it is clear from the record, that the disputed domain name <neo4j.se> currently is being used to redirect visitors to a website – “aws.amazon.com/neptune” – offering graph applications. Visitors using the disputed domain name <neo4j.se>, which comprises the Petitioner’s trademark, are thereby redirected to one of the Petitioner’s competitors. Obviously, the Domain Holder has designed this arrangement to attract traffic via the website <neo4j.se> to generate revenue.

This means, that the disputed domain name is being used in bad faith in the meaning of article 7.2 of the .se Policy.

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

The Domain Holder has not submitted any evidence that it has any rights or justified interest in the domain name.

8. Decision

The disputed domain name <neo4j.se> shall be transferred to the Petitioner.

9. Summary

It has been established that the disputed domain name <neo4j.se> is identical to the European Union trademark NEO4J. It is clear from the record that the domain name has been used in bad faith. The Domain Holder has not provided any evidence that it has any rights or justified interest in the domain name. Accordingly, the disputed domain name <neo4j.se> shall be transferred to the Petitioner.

Per Carlson

Date: April 19, 2022