

Alternative Dispute Resolution Proceeding

Case No. DSE2022-0009

1. Petitioner

The Petitioner is Landesbank Baden-Württemberg (LBBW), Germany, represented by Bird & Bird LLP, Germany.

2. Domain Holder

The Domain Holder is R.D., Sweden.

3. Domain Name and Procedural History

This Alternative Dispute Resolution proceeding relates to the disputed domain name <lbbw.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. The Center sent an invitation to amend its Petition on March 18, 2022. The Petitioner submitted an amendment to the Petition the same day. In accordance with Section 13 of the .se Rules, the Center formally notified the Domain Holder of the Petition on March 23, 2022. The Domain Holder submitted a response on April 4, 2022.

The Center appointed Bengt Eliasson as the sole Arbitrator in this matter on April 27, 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, Landesbank Baden-Württemberg (LBBW), is a mid-sized universal bank that provides services to companies, retail and institutional customers and savings banks. As an institution under public law, LBBW is owned by the German Federal State of Baden-Württemberg, the Savings Bank Association of Baden-Württemberg and the City of Stuttgart. LBBW is mainly focused on providing financial services for companies. LBBW also fulfills the role of a central bank for the savings banks in the German federal states of Baden-Württemberg, Rhineland-Palatinate and Saxony. With its international network that comprises

four branches, 13 representative offices and a financing company in Mexico City, LBBW supports its clients globally. LBBW owns the European Union Trademark registration no. 00113950, registered on July 13, 2000.

The disputed domain name <lbbw.se> was registered by the Domain Holder on November 30, 2021. The disputed domain name resolved to an inactive website before filing of the Petition.

The notification of the Petition was sent via e-mail to the Domain Holder on March 23, 2022, and delivered via courier on March 24, 2022.

The Domain Holder submitted two e-mail communications on April 4, and April 6, 2022, in Swedish and expressed its willingness to settle the matter.

The Petitioner filed comments to the Domain Holder's first communication on April 5, 2022.

The Center informed the Parties on April 6, 2022, of the possibility to settle the matter. The Parties did not inform the Center of any settlement discussions and informed the Parties of its commencement of appointment of Arbitrator on April 19, 2022.

5. Claim

The Petitioner claims that the disputed domain name shall be transferred to the Petitioner. Furthermore, the Petitioner also requests to have the dispute decided as an Accelerated Proceeding in case the Domain Holder does not respond to the Petition.

6. Parties' Contentions

A. Petitioner

The Petitioner is the owner of the European Union trademark registration No. 001139450 LBBW, registered on July 13, 2000. The disputed domain name is identical with the Petitioner's cited trademark. In addition to its LBBW trademarks, the Petitioner has also registered the domain <lbbw.de> and uses various other domain names for its international business communication via email. Furthermore, the Petitioner has always concluded its business under its commercial name LBBW since its establishment in 1999.

The Domain Holder of the disputed domain name <lbbw.se> is Mr. R.D. and not the company with id number 19700320-4059 LBBW (Lisa-Beril-Bengt-Walter). It is therefore irrelevant what rights this company may have with the respect to their product, *i.e.* sign with the text "LBBW". It is denied that either the Domain Holder or the company have any rights in the sign "LBBW". In any case, the Petitioner has the prior rights in the trademark LBBW. The Domain Holder has registered the disputed domain name merely to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the cited trademark, domain names and company name of the Petitioner. Before filing the Petition, there was no content available on the website connected to the disputed domain name except for a parking notice of the registrar Loopia. The non-use of the disputed domain name cannot prevent a finding of bad faith. Only after the Petition was filed content appeared on the website under the disputed domain name. Apparently, the only purpose of the changes was to sell a "LBBW" (Lisa-Beril-Bengt-Walter) sign. This is not sufficient proof for a legitimate and serious use of the disputed domain name and the "LBBW" sign. It is rather the question whether the sale of the "LBBW" sign, which is very similar to the Petitioner's trademark, constitutes a trademark violation on its own. When looking at the totality of the circumstances of the present case, and considering the factors that the Petitioner's trademark enjoys a fairly high degree of distinctiveness and reputation, it is obvious that the Domain Holder is simply trying to take advantage of the Petitioner's good reputation in the field of banking and finance services. The Domain Holder's concealing its identity, and the implausibility of any good faith use to which the disputed domain name may be put, it is clear that the

Domain Holder did act in bad faith when registering the disputed domain name. The Domain Holder's registration of the disputed domain name <lbbw.se>, especially by using a privacy service, prevents or make it difficult for the Petitioner to register its trademark as a country code Top-Level Domain (ccTLD) ".se" domain name. It can only be assumed that the Domain Holder's sole purpose of registering the disputed domain name is to sell it to the Petitioner eventually. Finally, the Petitioner's registration and use of the cited trademark and relevant domain name and company names clearly predates the date at which the Domain Holder registered the disputed domain name. Therefore, the Domain Holder has registered and used the disputed domain name in bad faith.

The Petitioner has not granted any license or authorization of any kind to the Domain Holder to use the cited LBBW trademark or its company name. There has never been any kind of business relationship between the Petitioner and the Domain Holder. Contrary to the Domain Holder's claim, there is no evidence for a legitimate use of the sign "LBBW" in the past. There is also no record of any business activity of the Domain Holder or the company LBBW (Lisa-Bertil-Bengt-Walter) in relation to the sign "LBBW". Furthermore, the Domain Holder did not submit any argument or provide any evidence in support of the claim that the disputed domain name <lbbw.se> was not registered in bad faith. Therefore, the Domain Holder does not have any right or legitimate interests in respect of the disputed domain name.

B. Domain Holder

The Domain Holder objects to the Petitioner's claim and state the following. The company registered under id number 19700320-4059 acquired the disputed domain name <lbbw.se> on November 30, 2020. The company under the mentioned id number should not be confused with the private person "R.D.".

Our recognized and popular product "LBBW" sign that has been sold long before the date for registration of the disputed domain name <lbbw.se> in a physical store and now also at "www.lbbw.se" is without doubt an absurd accusation, as the product exists and has been in our range long before the registration of the disputed domain name.

The disputed domain name <lbbw.se> has of course not been created in bad faith or the like, as our trademark and products have long been in our range, as well as email addresses, website, etc.

It is also irrelevant to claim that I as the Domain Holder have acted in bad faith regarding the disputed domain name <lbbw.se> as we had a product with this very name and chosen that the company should also be LBBW, *i.e.* like our product.

Furthermore, it is also irrelevant when the company was formed, as it is the very formation of the company that applies.

There is no connection between the German company Landesbank Baden-Württemberg and the disputed domain name <lbbw.se>, regardless of the ccTLD. It is obscured to say that my company name has no connection to the trademark LBBW.

Regarding the design of our company name / logo, like our product, there is no similarity to the German company Landesbank Baden-Württemberg, as the font / drawing as such is not commercially available but designed by a Swedish company and reworked by us.

As the disputed domain name has not been registered in bad faith, the Domain Holder is the self-appointed owner of the disputed domain name.

7. Discussion and Findings

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

1. The Domain Name is identical or similar to a name which is legally recognized in Sweden and to which the requesting party dispute resolution can prove its rights, and
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.

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 the owner of European Union trademark registration No. 001139450 LBBW, registered on July 13, 2000, which is identical to the disputed domain name <lbbw.se>.

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

The Petitioner's trademark has been used for several years, not only in Germany, and it is therefore not likely that the Domain Holder was unaware of the Petitioner when registering the disputed domain name <lbbw.se>. The Domain Holder has referred to a company name, LBBW (Lisa-Bertil-Bengt-Walter) under id number 19700320-4059, a sole proprietorship. The company was registered in 2005; however, according to the Swedish Companies Registration Office records, the present company name "LBBW" (Lisa-Bertil-Bengt-Walter) was changed on April 4, 2022, *i.e.* after the dispute resolution proceedings had been initiated. The company name LBBW has been registered in relation to a real estate business. Furthermore, the Arbitrator notes that the disputed domain name resolved to an inactive website until the Petition was filed. The Arbitrator therefore, based on the above circumstances, concludes that the disputed domain name has been registered and used in bad faith.

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

The fact that the Domain Holder has registered a company name after the dispute resolution proceedings had been initiated is not sufficient to entail any rights or justified interests in the disputed domain name <lbbw.se>. The Domain Holder has furthermore, not presented any evidence of legitimate use of the sign "LBBW" prior to the dispute resolution proceedings. The Arbitrator finds that the Domain Holder has no rights or justified interest in the disputed domain name.

8. Decision

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

9. Summary

The disputed domain name <lbbw.se> is identical to the Petitioner's registered trademark LBBW. The domain name has been registered and used in bad faith. The fact that the Domain Holder has registered a company name, LBBW (Lisa-Bertil-Bengt-Walter), after the dispute resolution proceedings had been initiated does not in itself give the Domain Holder any rights or justified interest in the disputed domain name.

Bengt Eliasson

Date: May 17, 2022