

## **ADMINISTRATIVE PANEL DECISION**

Telefonaktiebolaget LM Ericsson v. Carolina Rodrigues, Fundacion Comercio Electronico

Case No. D2023-0172

### **1. The Parties**

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

### **2. The Domain Name and Registrar**

The disputed domain name <ericsson.com> 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 January 13, 2023. On January 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 13, 2023, 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 (Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2023, 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 January 23, 2023.

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 January 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 15, 2023.

The Center appointed Charles Gielen as the sole panelist in this matter on March 2, 2023. 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 a world-leading provider of communication technology and services around the world.

The Complainant is the owner of the trade mark ERICSSON. Among others, the Complainant owns the following registrations:

- United States trade mark No. 1313196, registered on January 8, 1985 for goods in class 9, 16.
- United States trade mark No. 2665187, registered on December 24, 2002 for goods and services in classes 9, 16, 35, 36, 37, 38, 41 and 42.
- Australian trade mark No. 322638, registered on October 3, 1978 for goods in class 9.
- European Union trade mark No. 000107003 registered on March 23, 1999 for goods and services in classes 9, 11, 16, 35, 36, 37, 38, 39, 41 and 42.
- European Union trade mark No. 004822219 registered on December 7, 2006 for services in classes 41 and 42.

The Complainant was founded in 1876. The company offers services, software and infrastructure in information and communications technology for telecommunications operators, traditional telecommunications and Internet Protocol networking equipment, mobile and fixed broadband, operations and business support services, cable television, IPTV, video systems, and an extensive services operation. The Complainant maintains a strong Internet presence and communicates with its customers through its primary domain name <ericsson.com>.

The disputed domain name was registered on November 7, 2022 and directs to a website featuring links to third-party websites.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trade mark. The disputed domain name differs from the Complainant's trade mark by just one letter ("o") and must therefore be considered as an example of typosquatting. By using it, the Respondent tries to take advantage of Internet users that inadvertently type an incorrect address – often a misspelling of the Complainant's trade mark – when seeking to access the trade mark owner's website. Such a deliberate misspelling of a trade is intended to confuse Internet users. A domain name containing such a misspelling is therefore a confusingly similar domain name. The Complainant also submits that in assessing whether a disputed domain name is confusingly similar to a trade mark the gTLD is disregarded. Therefore, the disputed domain name is confusingly similar to the trade mark ERICSSON.

Furthermore, the Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name. First, there is no indication that the Respondent is commonly known by the disputed domain name. Second, the Complainant has not granted any authorization to anyone, which includes the Respondent, to register domain names containing the Complainant's trade mark or similar signs. Third, the Respondent is using the disputed domain name to redirect Internet users to a website featuring links to third-party websites, most of which do not relate to the Complainant. Presumably, the Respondent receives pay-per-click fees from the linked websites that are listed at the disputed domain name's website. The Respondent therefore is not using the disputed domain name to provide a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. Fourth, the Respondent has listed

the disputed domain name for sale at a domain name sales platform, which demonstrates its lack of legitimate rights and interests in the disputed domain name.

Finally, the Complainant argues that the Respondent registered and is using the disputed domain name in bad faith. According to the Complainant, the Respondent knowingly registered the disputed domain name containing a confusingly similar reproduction of the well-known ERICSSON trade mark to capitalize on consumer recognition of this trade mark. The fact that the Respondent registered an almost identical reproduction of the Complainant's trade mark ERICSSON is a clear indication that the Respondent registered and is using the disputed domain name in bad faith. The Complainant refers to numerous UDRP decisions that have found that registering a domain name to take advantage of traffic generated by typing errors committed by another's customers, as here, is evidence of bad faith registration and use pursuant to the Policy. The disputed domain name that merely comprises a one-letter misspelling of the Complainant's ERICSSON trade mark results in confusion among unsuspecting Internet users looking for the Complainant's services, and in misleading such users as to the source of the disputed domain name and website. By creating this likelihood of confusion between the Complainant's trade mark and the disputed domain name, the Respondent has demonstrated an intent to capitalize on the fame and goodwill of the Complainant's trade mark in order to increase traffic to the Respondent's website for the Respondent's own pecuniary gain, as evidenced by the presence of multiple pay-per-click links posted on the Respondent's website.

The Complainant furthermore contends that the bad faith intentions of the Respondent follow from the fact that the Respondent has been found to act in bad faith in a number of other cases in which UDRP panels found cybersquatting by the Respondent. Reference is made to the following UDRP decisions:

- *Mav Media, LLC v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-3851](#).
- *Carvana, LLC v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-4448](#).
- *Gameloft S.E. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-4172](#)
- *Laboratoire Terravita v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-4030](#).
- *CK Franchising, Inc. v. Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2022-4247](#).

Also, the Complainant points at a number of other domain names registered in the Respondent's name showing a one letter difference with famous trade marks, such as <aacorhotels.com>, <clarviate.com> and <norvartispharma.com>. This demonstrates that the Respondent is engaging in a pattern of cybersquatting which is evidence of bad faith registration and use of the disputed domain name. Finally, the bad faith intentions of the Respondent follow from the fact that at the time of registering the disputed domain name, the Respondent was using a privacy service to hide its identity.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Panel is of the opinion that the Complainant's contentions are reasoned and that the disputed domain name should be transferred to the Complainant pursuant to the Policy.

### **A. Identical or Confusingly Similar**

The Complainant proves that it has rights in the trade mark ERICSSON based on different trade mark registrations. The Panel is of the opinion that the disputed domain name <ericssoon.com> is confusingly

similar to the trade mark of the Complainant. The only difference between the trade mark and the disputed domain name (leaving aside the gTLD “.com”) is the letter “o”. This difference clearly is insufficient to take away the confusing similarity. The disputed domain name is a misspelling of the Complainant’s ERICSSON trade mark and must therefore be considered confusingly similar to the Complainant’s trade mark. The disputed domain name is a clear example of typosquatting.

The added suffix “.com” does not change the finding that the disputed domain name is confusingly similar, since the “.com” suffix is understood to be a technical requirement. In making the comparison between the trade mark and the disputed domain name, the gTLD, is therefore disregarded. The Panel is of the opinion that applying these principles to this case, the disputed domain name is confusingly similar to the trade mark.

Therefore, the requirement under paragraph 4(a)(i) of the Policy is met.

### **B. Rights or Legitimate Interests**

The Panel is of the opinion that the Complainant made out a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. First, the Respondent did not show that it owns any rights to the name “ericsson” nor that it has any license from the Complainant to use its trade mark. Second, the Respondent did not argue that it is commonly known, or that it has ever been known under the name “ericsson”.

Third, the Respondent is using the disputed domain name to redirect Internet users to a website featuring links to third-party websites, most of which do not relate to the Complainant or competitors. However presumably, the Respondent receives pay-per-click fees from the linked websites that are listed at the disputed domain name’s website. The Respondent therefore is not using the disputed domain name to provide a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. Fourth, the Respondent has listed the disputed domain name for sale at a domain name sales platform, which demonstrates its lack of legitimate rights and interests in the disputed domain name. Finally, the Respondent has not come forward with evidence of any rights or legitimate interests and the Panel does not find any in the present record.

In view of the aforementioned, the Panel is of the opinion that the requirement of paragraph 4(a)(ii) of the Policy is met.

### **C. Registered and Used in Bad Faith**

The Panel is of the opinion that the disputed domain name was registered and is being used in bad faith. With respect to the registration, the Panel finds that it is plausible that the Respondent must have been aware of the Complainant’s earlier trade mark when it registered the disputed domain name. As the Complainant convincingly argues, the trade mark ERICSSON is a well-known trade mark and it has been in use for a long time. The disputed domain name merely comprises a one letter misspelling of the Complainant’s ERICSSON trade mark, resulting in confusion among unsuspecting Internet users looking for the Complainant’s services, and in misleading such users as to the source of the disputed domain name and website. This makes the registration of the disputed domain name a bad faith registration.

Furthermore, the Panel is of the opinion that the Respondent, by using the disputed domain name that is confusingly similar to the Complainant’s trade mark ERICSSON, will attract Internet users to the Respondent’s website by creating a likelihood of confusion with the Complainant’s trade mark and its business. This makes the use of the disputed domain name bad faith use. The bad faith intentions of the Respondent also follow from the fact the Respondent has demonstrated an intent to capitalize on the fame and goodwill of the Complainant’s trade mark in order to increase traffic to the Respondent’s website for the Respondent’s own pecuniary gain, as evidenced by the presence of multiple pay-per-click links posted on the Respondent’s website. Finally, the Respondent showed a conduct of cybersquatting in a number of other UDRP cases decided by other panels as well as by registering domain names that are clear misspellings of famous trade marks. This Panel is of the opinion that the finding of bad faith is reinforced by

such pattern of conduct. The conclusion therefore is that the disputed domain name has been registered and is being used in bad faith.

The Panel therefore considers the requirement of paragraph 4(a)(iii) of the Policy to be met.

## **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.com> be transferred to the Complainant.

*/Charles Gielen/*

**Charles Gielen**

Sole Panelist

Date: March 12, 2023