

Alternative Dispute Resolution Proceeding

Case No. DSE2023-0015

1. Petitioner

The Petitioner is International AIDS Society (IAS), Switzerland, represented by LALIVE, Switzerland.

2. Domain Holder

The Domain Holder is G.G., United Arab Emirates.

3. Domain Name and Procedural History

This Alternative Dispute Resolution proceeding relates to the domain name <ias.se> (the “Domain Name”)

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 the Petition on May 25, 2023. The Petitioner submitted an amended Petition on the same day. In accordance with Section 13 of the .se Rules, the Center formally notified the Domain Holder of the Petition on June 1, 2023. The Domain Holder sent an informal email communication on June 30, 2023. The Center informed the Parties of the Domain Holder’s email communication and the possibility to suspend the proceeding for settlement discussions on July 3, 2022. The Petitioner confirmed on July 4, 2023, that they did not request a suspension of the proceeding. Accordingly, the Center informed the Parties of its commencement of Arbitrator appointment process on July 4, 2023. The Domain Holder submitted additional material on July 14, 2023.

The Center appointed Peter Hedberg as the sole Arbitrator in this matter on July 14, 2023. 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 non-profit organization which works to unite scientists, policy makers and activists to galvanize the scientific response, build global solidarity and enhance human dignity for all those living with

and affected by HIV. The Petitioner is *inter alia* the holder of the International Trademark Registration No. 1624283, IAS, registered on August 23, 2021, which *inter alia* designates the European Union.

The Domain Name was registered on November 3, 2008, and resolves to a website copying the Complainant's website.

5. Claim

The Petitioner has requested that the Domain Name be transferred to the Petitioner.

The Domain Holder does not consent with the Petitioner's claim.

6. Parties' Contentions

Admissibility of additional material filed by the Domain Holder on July 14, 2023

The Domain Holder had until July 1, 2023, to file a response to the Petition (the "Deadline"). On June 30, 2023, the Domain Holder filed a response informing the Center that he objected to the Petitioner's claim, but the response did not include any reasons for said objection. Instead, it included a settlement proposal. The Center informed the Parties of the Domain Holder's email communication and the possibility to suspend the proceeding for settlement discussions. The Parties were given until July 7, 2023, to confirm to the Center whether the Parties were exploring settlement options, hence six days after the lapse of the Deadline. On July 4, 2023, the Petitioner informed the Center that it did not want to explore settlement options. On July 5, 2023, *i.e.* four days after the Deadline, the Domain Holder filed a request to extend the Deadline until July 14, 2023, in order to develop the reasons for its response initially filed on June 30, 2023. On July 14, 2023, the Domain Holder submitted additional material to the Center developing its reasons for objecting to the Petition.

The Domain Holder's first response was filed prior to the Deadline, after which the Parties were given until July 7, 2023, to confirm to the Center whether the Parties were exploring settlement options. It was not until the Petitioner's response on July 4, 2023, *i.e.* four day after the lapse of the Deadline, that the Domain Holder was informed of the Petitioner's position in not exploring settlement options. As the Domain Holder was not aware of the Petitioner's position, and as the Domain Holder's request to extend the Deadline was filed shortly after he was informed of the Petitioner's position, the Arbitrator finds it reasonable to accept the Domain Holder's request for extension.

Based on the above circumstances, and that it is the responsibility of the Arbitrator to ensure that the dispute issue is considered to the degree required (paragraph 18 of the .se Rules), the Arbitrator has accepted the Domain Holder's request for extension and found the additional material filed by the Domain Holder on July 14, 2023, to be admissible. Hence, the Arbitrator will take said material into account when deciding on the Petition.

A. Petitioner

The Petitioner is the owner of the International Trademark Registration No. 1624283 for the word mark IAS. Said mark was registered on August 23, 2021, and claims a priority date of April 20, 2021. This trademark *inter alia* designates the European Union which includes Sweden and said trademark is confusingly similar to the Domain Name.

The Domain Holder knowingly registered the Domain Name containing an identical reproduction of the well-known IAS trademark in order to unduly obtain donations and sponsorships from third parties. The Domain Name is blatantly impersonating the Petitioner, leading Internet users to believe that they have reached IAS's official website. The fact that the Domain Holder chose to register an exact reproduction of the

Petitioner's IAS trademark and is using its website to impersonate the Petitioner indicates that the Domain Holder had knowledge of the Petitioner. Furthermore, the Domain Name was only reactivated a few months after the Petitioner obtained trademark rights over the "IAS" acronym in various jurisdictions including the European Union. Therefore, the Domain Name is being used by the Domain Holder in bad faith.

The Petitioner has not authorized the Domain Holder to use the name or the IAS trademark for any purpose and he has no connection or affiliation with the Petitioner. The Domain Holder therefore has no right to include the IAS trademark in the Domain Name and has not received any license or consent, express or implied, to do so. The Domain Holder is not making use of the Domain Name in connection with a *bona fide* offering of goods or services. Hence, the Petitioner submits that the Domain Holder lacks rights or a justified interest in the Domain Name.

B. Domain Holder

The Petitioner is a Swiss organization without any business or presence in Sweden or Scandinavia. The IAS trademark was registered after the Domain Holder's registration of the Domain Name. The Petitioner cannot base its Petition on the IAS trademark as the Domain Name was registered prior to the registration of the IAS trademark.

The Domain Name is a three-letter domain name which means that it is generic, and the scope of use of such a domain name is broad. Hence it should be difficult to obtain an exclusive right to such a letter combination. The Domain Holder has not made any money off the website.

The Domain Name is a generic three-letter domain name which can have many different meanings and could thus be used by various parties and entities.

7. Discussion and Findings

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 International Trademark Registration No. 1624283, IAS, which *inter alia* designates the European Union. The letter combination, IAS, protected by said trademark is identical to that of the Domain Name. The objection from the Domain Holder that the trademark was registered after the registration of the Domain Name has no bearing on the fact that the Petitioner is the holder of a trademark right, which is legally recognized in Sweden, and that said right is identical to the Domain Name. Hence the Petition fulfills the requirement in 7.2 of the .se Policy.

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

The Arbitrator wishes to point out that the requirement of bad faith in point 7.2. of the .se Policy is that the domain name in question shall have been registered *or used* in bad faith. Thus, the circumstance that a domain name was registered prior to the registration of a trademark does not exclude the possibility of finding that a domain holder has acted in bad faith in accordance with the .se Policy. When determining whether a domain name has been registered or used in bad faith, all relevant circumstances are assessed. It is sufficient that bad faith can be proven to exist either in connection with registration *or* with the use of the domain name for the condition to be fulfilled. With that said, if a domain name was registered before the trademark on which the petition is based, this is a circumstance that may support that the domain name has not been registered or used in bad faith.

In the case at hand, print outs from the website under the Domain Name show that the information available on said website describes an organization which is very similar to the Petitioner. Even the name of the Petitioner, International AIDS Society, is used. In the view of the Arbitrator there is a clear risk that a visitor to said website could be misled into believing that they have reached the Petitioner's website. The Domain

Holder has not submitted any explanation to this fact, nor anything else which could clarify why this information is available on the website under the Domain Name. The Domain Holder is clearly impersonating the Petitioner and thus utilizing the Petitioner's trademark to attract traffic to its own website.

All in all, even though the Domain Name was registered before the IAS trademark, the Arbitrator finds that the Domain Name has been used in bad faith.

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

The Domain Holder claims that the Domain Name is a generic three-letter domain name which can have many different meanings and could thus be used by various parties and entities, but the Domain Holder does not provide any evidence on this. Furthermore, this does not explain why the Domain Name is used to describe an organization which is very similar to the Petitioner and offering similar services, and even uses the Petitioner's name, International AIDS Society. Hence the Arbitrator finds that the Domain Holder has no right or justified interest in the Domain Name.

8. Decision

The Petition is well founded, and the Domain Name shall be transferred to the Petitioner.

9. Summary

The Domain Name is identical to a trademark registration recognized in Sweden and owned by the Petitioner. The Domain Holder has used the Domain Name in bad faith and does not have a right or justified interest in the Domain Name.

Peter Hedberg

Date: August 3, 2023