

## Alternative Dispute Resolution Proceeding

### Case No. DSE2023-0021

#### 1. Petitioner

The Petitioner is Molton Brown Limited, United Kingdom, represented by SafeNames Ltd., United Kingdom.

#### 2. Domain Holder

The Domain Holder is A.B., Sweden.

#### 3. Domain Name and Procedural History

This Alternative Dispute Resolution proceeding relates to the disputed domain name <moltonbrown.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 August 16, 2023. The Domain Holder did not submit any response and, accordingly, the Center notified the Domain Holder’s default on September 18, 2023.

The Center appointed Per Carlson as the sole Arbitrator in this matter on September 25, 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, Molton Brown Limited, is a provider of *inter alia* toiletries, fragrance, and beauty products, founded in 1971. The Petitioner is the holder of the European Union trademark MOLTON BROWN (reg. no. 000023366, registered on January 15, 1999). The Domain Holder is the holder of the disputed domain name <moltonbrown.se>, registered on September 18, 2022.

## 5. Claim

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

The Domain Holder has been given the opportunity to respond to the Petition but has not submitted any response.

## 6. Parties' Contentions

### A. Petitioner

In support of its claims, the Petitioner has argued that the disputed domain name <moltonbrown.se> is identical to the European Union trademark MOLTON BROWN, that the disputed domain name has been registered and 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, *inter alia*, the following.

1. The Petitioner has 50 stores across the United Kingdom, and has an international presence with stores in Sweden, India, Italy, Japan, Kuwait, and the United States of America, among others. The Petitioner's goods have a further worldwide reach through stockists across Europe, Asia and North America.
2. The Petitioner uses its official websites, "www.moltonbrown.co.uk" and "www.moltonbrown.com" (both registered in 1997) to provide a history of the MOLTON BROWN brand. The Petitioner has also established a social media presence and uses the trademark MOLTON BROWN to promote its services.
3. Since the Petitioner's inception, the MOLTON BROWN mark has become well known for its toiletries and associated products. In 2022, the Petitioner had a turnover in excess of GBP 101 million.
4. The disputed domain name encompasses the MOLTON BROWN trademark in its entirety with no adornment or addition. The disputed domain name is therefore identical to the Petitioner's registered trademark MOLTON BROWN.
5. The MOLTON BROWN brand has become one of the most globally renowned brands in its sector and operates significantly in the jurisdiction of Sweden. For this reason, the Domain Holder's simplest due diligence would have shown the Petitioner holds registered trademarks for the MOLTON BROWN term.
6. In addition, the use of the disputed domain name is inherently bad faith. The disputed domain name currently resolves to a site that offers PPC links that directly compete with the Petitioner's MOLTON BROWN products.

To the best of the Petitioner's knowledge, the Domain Holder has no registered trademarks for the MOLTON BROWN term, which is a distinctive identifier for the Petitioner's goods and services. There is also no evidence that the Domain Holder retains unregistered trademark rights to the term MOLTON BROWN.

## 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's European Union trademark MOLTON BROWN is legally recognized in Sweden. The disputed domain name is identical to the trademark MOLTON BROWN.

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

The Petitioner's MOLTON BROWN trademark, possesses a quite high level of originality. Thus, it is very unlikely that the Domain Holder has registered the disputed domain name without having the Petitioner's trademark as a role model (*cf. res ipsa loquitur*). Moreover, the disputed domain name resolves to a site that offers PPC links that directly compete with the Petitioner's products. The disputed domain name have therefore in any case been used in bad faith in the meaning of article 7.2.2 of the .se Policy.

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

The Domain Holder has not made any submission in the present proceeding. Thus, the Domain Holder has not stated any fact that would constitute a right to or a justified interest in the disputed domain name.

**8. Decision**

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

**9. Summary**

The disputed domain name <moltonbrown.se> is identical to the Petitioner's European Union trademark MOLTON BROWN. It is clear from the present record that the disputed 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 disputed domain name. Accordingly, the disputed domain name shall be transferred to the Petitioner.

**Per Carlson**

Date: October 5, 2023