

## **Alternative Dispute Resolution Proceeding**

### Case No. DSE2023-0025

#### **1. Petitioner**

The Petitioner is iQ Solar Sweden AB, Sweden, represented internally.

#### **2. Domain Holder**

The Domain Holders are D.T., and T.J., Sweden represented by ArtLaw Sweden AB, Sweden.

#### **3. Domain Name and Procedural History**

This Alternative Dispute Resolution proceeding relates to the domain names <iqsolar.se> and <iqsolarsweden.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 October 19, 2023. The Domain Holder submitted a response on November 30, 2023. The Domain Holder submitted an unsolicited supplemental filing on December 1, 2023.

The Center appointed Johan Sjöbeck as the sole Arbitrator in this matter on December 5, 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’s Swedish company name is IQ SOLAR SWEDEN AB with company registration number 559422-0716 and registration date April 3, 2023. The Petitioner operates in the renewable energy field.

The first disputed domain name <iqsolar.se> was registered on July 22, 2019, and the second disputed domain name <iqsolarsweden.se> was registered on September 6, 2023. The disputed domain names resolve to a standard registrar parking website.

## **5. Claim**

The Petitioner claims that the disputed domain names <iqsolar.se> and <iqsolarsweden.se> shall be transferred to the Petitioner.

## **6. Parties' Contentions**

### **A. Petitioner**

The Petitioner claims that the Domain Holders are the same person. The Petitioner claims that the Domain Holder is using different identities due to the other legal matters the Petitioner has initiated against the Domain Holder.

Because the Petitioner and the Domain Holder originally were part of the same company, the first disputed domain name <iqsolar.se> was registered to the Domain Holder while he was still part of the company and has since its registration been used by the Petitioner. For example, the CEO of the Petitioner is using "[...].@iqsolar.se" for its e-mail address. The Domain Holder has also registered the domain names <iqsolarsweden.se> and <iqsolarsweden.com>. When the Petitioner became aware that the Domain Holder was wanted by Swedish authorities due to allegations of fraud, the Domain Holder was removed from the Petitioner's company. Despite being removed from the company, the Domain Holder refuses to transfer the disputed domain names to the Petitioner.

The Domain Holder is using the disputed domain names in bad faith by impersonating the Petitioner and creating an illusion of being an authorized agent or representative of the Petitioner. The Domain Holder has sent email messages to potential investors and has also signed a contract for office space.

Given that the Domain Holder no longer is part of the Petitioner's company and does not hold any shares, the Domain Holder has no justified interest in the disputed domain names.

### **B. Domain Holder**

The Domain Holder argues that the registration of the disputed domain names was made in good faith. The first disputed domain name was registered by the Domain Holder in connection with a previous setup for a similar business idea with the same name. Although the Petitioner has never been the holder of the first disputed domain name, the Petitioner has been offered to purchase it several times.

The Domain Holder maintains that there are several underlying legal disputes between the individuals involved in the present domain name dispute. These underlying disputes relate, among other things, to the ownership of shares in the company IQ Solar AB.

## **7. Discussion and Findings**

### **7.1 Procedural issue: the Domain Holders identity**

The Swedish Internet Foundation confirmed in its communication to the WIPO Center, that the Domain Holders for the disputed domain names are D.T., and T.J. The Petitioner has submitted arguments and evidence indicating that the Domain Holders are the same person. This has not been rebutted by the Domain Holders legal representative. Based on the available record and the Parties arguments, the Arbitrator finds that the disputed domain names are registered by the same person and will therefore continue to refer to the Domain Holder in its decision.

## **7.2 Procedural issue: unsolicited supplemental filing from the Domain Holder**

The Arbitrator noted that the Domain Holder submitted an unsolicited supplemental filing on December 1, 2023, i.e., after the Response due date. The Arbitrator has decided not to consider the filing in its decision, as it was not requested by the Arbitrator. However, if the Arbitrator had included the submission in its decision, it would not have changed the outcome in the present matter.

## **7.3 Substantive issues**

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

1. The disputed domain name is identical or similar to a name which is legally recognized in Sweden and to which the party requesting dispute resolution can prove its rights, and
2. The disputed domain name has been registered or used in bad faith, and
3. The Domain Holder has no rights or justified interest in the disputed domain name.

All three conditions must be met in order for a petitioner to succeed in its action.

### **A. The Domain Names are identical or similar to a name which is legally recognized in Sweden and to which the Petitioner can prove its rights**

The Panel finds that the Petitioner's registered Swedish company name, IQ SOLAR SWEDEN AB, is a legally recognized right in Sweden in accordance with the .se Policy.

It is common practice to disregard the country code Top-Level Domain ("ccTLD") ".se" when comparing a domain name and the claimed right by a petitioner. Furthermore, the designation of the company's legal form in question, in this case "AB", has no bearing on this assessment. The Petitioner's company name is clearly recognizable in the disputed domain names <iqsolar.se> and <iqsolarsweden.se>.

Having the above in mind, the Arbitrator finds that the disputed domain names are similar to the Petitioner's right and that the Petitioner has fulfilled the first condition under Paragraph 7.2 of the .se Policy.

### **B. The Domain Names have been registered or used in bad faith**

The Arbitrator notes that there is significant disagreement between the Parties, not only as to the factual circumstances surrounding the disputed domain names but also in regard to other ongoing legal disputes between the Parties.

The Petitioner's company name IQ SOLAR SWEDEN AB was registered on April 3, 2023. Given that the first disputed domain name was registered on July 22, 2019, which is prior to the registration of the Petitioner's company name, the Arbitrator concludes that first disputed domain name was not registered in bad faith. Although the second disputed domain name was registered by the Domain Holder on September 6, 2023, i.e., after the registration of the Petitioner's company name, there is no evidence in the case demonstrating that the disputed domain name was registered in bad faith. Considering the above, the Arbitrator finds that the Petitioner has not demonstrated that either of the disputed domain names were registered in bad faith, within the meaning of the .se Policy.

The Petitioner maintains that the Domain Holder used the disputed domain names in bad faith by impersonating and implying an association with the Petitioner. However, the submissions by the Parties indicate that the Domain Holder, at least for a period of time, used the disputed domain names while connected to the Petitioner's organization. Considering the foregoing, the Arbitrator finds that the evidence presented in the case fails to clearly establish the timeline of the Domain Holder's separation from the

Petitioner's company in relation to when and how the Domain Holder used the disputed domain names in a manner that falsely suggested an affiliation with the Petitioner. It cannot be excluded that the use, referred to by the Petitioner, may have taken place when the Domain Holder was still related to the Petitioner. Based on the balance of probabilities and the evidence in the present matter, the Petitioner has not successfully demonstrated that the Domain Holder used the disputed domain names in bad faith, within the meaning of the .se Policy.

Moreover, the Arbitrator finds that the dispute between the Parties exceeds the scope of the .se Policy and would be more appropriately addressed by a court of competent jurisdiction. Accordingly, this also supports a denial of the Petition.

In light of the above, the Arbitrator finds that the Petitioner has failed to prove the second condition under Paragraph 7.2 of the .se Policy.

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

Given that the second condition is not met, the Petitioner's request for transfer of the disputed domain names cannot be granted and consequently there is no need for an assessment as to whether or not the Domain Holder has any rights or justified interest in the disputed domain names.

## **8. Decision**

The Petitioner's claim is denied.

## **9. Summary**

The disputed domain names are similar to the Petitioner's company name. However, the evidence in the case does not demonstrate that the Domain Holder has registered or used the disputed domain names in bad faith. Consequently, the Petition is denied.

**Johan Sjöbeck**

Date: December 23, 2023