

## **ADMINISTRATIVE PANEL DECISION**

Ludvig Svensson AB v. Judy Howard  
Case No. D2023-3608

### **1. The Parties**

The Complainant is Ludvig Svensson AB, Sweden, represented by Rouse AB (Valea AB trading as Rouse AB), Sweden.

The Respondent is Judy Howard, United States of America (“United States”).

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

The disputed domain name <ludvigsvenson.com> is registered with Wild West Domains, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 28, 2023. On August 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 28 and 29, 2023, the Registrar transmitted by email to the Center its verification responses disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 30, 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 amendment to the Complaint on August 31, 2023.

The Center verified that the Complaint together with the amendment to the 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 September 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 25, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 29, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on October 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 following facts are undisputed.

The Complainant is a Swedish textile company founded by Ludvig Svensson in 1887. The Complainant has remained a family business and it is currently being managed by the fourth Ludvigson generation.

The Complainant has been operating its textile business from Kinna in Sweden since its textile fabric was inaugurated early 20th century. During the early days the Complainant focused on home textiles like curtains. From the 70's of the past century the Complainant's discovered a need for textiles that could be used to provide shade and save energy in greenhouses. To this day the Complainant continues to produce textiles that are being used in greenhouses.

The Complainant is active worldwide, including in the Netherlands (Kingdom of the), Estonia, the United States, Mexico, and China. It has global sales to more than 130 countries.

The Complainant operates under its full name Ludvig Svensson AB, but also in short under the name Svensson. The Complainant owns various trademark registrations including the word element "Svensson" in various countries worldwide, such as the United States. One of the registrations is the Swedish wordmark SVENSSON, with registration no. 329444 and a registration date of December 11, 1998 (the "Trademark").

The Complainant's main website is accessible via "www.ludvigsvensson.com".

The disputed domain name was registered on August 7, 2023. At the time of filing the Complaint, it did not resolve to an active website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The disputed domain name contains the Trademark, except for the second "s" in the last four letters of the Trademark. As such it is a misspelling of the Trademark. In the disputed domain name, the Trademark is preceded by the term "ludvig", however, this would not prevent a finding of confusing similarity under the first element. Given the Complainant's domain name <ludvigsvensson.com> (registered on May 16, 1997), it is clear that the Respondent has targeted the Complainant when registering the disputed domain name.

The Respondent has no rights to or legitimate interests in respect of the disputed domain name based on the Complainant's prior use of its trademark SVENSSON and the company name Ludvig Svensson AB or its parent company Svensson Invest AB. The Respondent is not affiliated or related to the Complainant in any way, or licensed or otherwise authorized to use the Trademark in connection with a website, a domain name or for any other purpose. The Respondent is not using the disputed domain name in connection with any legitimate noncommercial or fair use without intent for commercial gain, is not generally known by the disputed domain name and has not acquired any trademark or service mark rights in that name or mark. The Complainant further submits that the Respondent is neither using the disputed domain name in connection with a *bona fide* offering of goods or services.

Phishing emails have been sent from the disputed domain name. An actual employee at the Finance department of the Complainant's office in the Netherlands (Kingdom of the) was being impersonated. In the email conversation a person using an email address including the disputed domain name, informed a customer of the Complainant that the Complainant has new banking details.

The Respondent has intentionally registered and is using the disputed domain name in bad faith. It is apparent from the composition of the disputed domain name that the Respondent chose to register a domain that is an easily overlooked misspelling of the Trademark. Also, the use for sending phishing emails is evidence of bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Trademark with the exception of the letter "s" is reproduced within the disputed domain name. The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of the other term here, being "ludvig", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

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

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

To the contrary, the Respondent is using the disputed domain name for sending phishing emails.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

The Panel refers to its considerations under the section 6.B above.

The Panel needs to assess whether the Respondent has registered and is using the disputed domain name in bad faith.

In the present case, the Panel notes that the Respondent has clearly targeted the Complainant, by registering and using the disputed domain name, which consists of the name of the Complainant and includes a misspelling of the Trademark, to send phishing emails to the Complainant's customers.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The disputed domain name is inactive. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the distinctiveness or reputation of the Complainant's trademark, the composition of the disputed domain name, and the use of the disputed domain name for sending phishing emails, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Based on the available record, the Panel finds the third element of the Policy has been established.

## 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 <ludvigsvenson.com> be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: October 10, 2023