

## **Alternative Dispute Resolution Proceeding**

### **Case No. DSE2022-0019**

#### **1. Petitioner**

The Petitioner is FUJIFILM Europe B.V., Netherlands, represented by SnapDragon Monitoring Limited, United Kingdom.

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

The Domain Holder is I.M., Nordic Cleen Invest SRL, Romania.

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

This Alternative Dispute Resolution proceeding relates to the disputed domain name <instaxstore.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. The Center sent an invitation to the Petitioner to amend the Petition on June 10, 2022. The Petitioner submitted an amendment to the Petition the same day. The Petitioner also submitted an amended Petition on June 23, 2022. In accordance with Section 13 of the .se Rules, the Center formally notified the Domain Holder of the Petition on June 24, 2022. The Domain Holder did not submit any response and, accordingly, the Center notified the Domain Holder’s default on July 26, 2022.

The Center appointed Per Carlson as the sole Arbitrator in this matter on August 9, 2022. 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 subsidiary of FUJIFILM Corporation and has a right of disposition to *inter alia* the European Union trademark INSTAX (reg no 000677385, registered on April 22, 1999), registered for, among other goods, unexposed photographic films in class 1 of the Nice Classification.

The Domain Holder is the holder of the disputed domain name <instaxstore.se>, registered on December 13, 2021.

## 5. Claim

The Petitioner has requested that the disputed domain name <instaxstore.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 argues that the disputed domain name is identical or similar to the European Union trademark INSTAX, that the disputed domain name has been registered or 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.

The disputed domain name contains the European Union trademark INSTAX. The Domain Holder is using the trademark INSTAX without the Petitioner's authorization. The Domain Holder is listing INSTAX products for sale on the website at the disputed domain name, but the website does not fulfill any of the purchase orders. In addition, the Domain Holder is selling products for twice the price. Offering these products on the said website, and using the trademark INSTAX, is an infringement of the Petitioner's rights in the trademark.

## 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 has an authorized right of disposition of the European Union trademark INSTAX. A European Union trademark has a unitary character and equal effect throughout the European Union. Thus, the trademark INSTAX is legally recognized in Sweden. The disputed domain name <instaxstore.se> contains the said trademark INSTAX entirely and the term "store" and is similar to the trademark.

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

It is clear from the present record that the disputed domain name <instaxstore.se> has been used for a website offering *inter alia* photographic films using the trademark INSTAX, which falsely suggests an affiliation with the Petitioner. Accordingly, the disputed domain name has been used in bad faith in accordance with article 7.2 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 <instaxstore.se> shall be transferred to the Petitioner.

**9. Summary**

The disputed domain name <instaxstore.se> is similar to the European Union trademark INSTAX in which the Petitioner has rights. 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: August 29, 2022