

## **Alternative Dispute Resolution Proceeding**

### **Accelerated Proceeding**

### **Case No. DSE2022-0035**

#### **1. Petitioner**

The Petitioner is A.B., Monaco, represented by Lead-up Avocats, France.

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

The Domain Holder is NJALLA - 1337 Services LLC / Host Master, 1337 Services LLC, Saint Kitts and Nevis.

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

This Alternative Dispute Resolution proceeding relates to the disputed domain name <alexander-bourtakov.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 December 20, 2022. The Domain Holder did not submit any response and, accordingly, the Center notified the Domain Holder’s default on January 20, 2023.

The Center appointed Johan Sjöbeck as the sole Arbitrator in this matter on January 26, 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, A. B., is a British citizen domiciled in Monaco. The disputed domain name, which was registered by the Domain Holder on April 22, 2022, resolves to a website with information about the Petitioner.

## 5. Claim

The Petitioner claims that the disputed domain name shall be transferred to the Petitioner. Furthermore, the Petitioner also requests to have the dispute decided as an Accelerated Proceeding if the Domain Holder does not respond to the Petition.

## 6. Parties' Contentions

### A. Petitioner

The Petitioner is a businessman with interests all over the world. His surname is used by very few people and the disputed domain name is identical or at least similar to the Petitioner's name and surname. The Petitioner's name is originally from the Russian Federation and his name is not used in Sweden.

The Petitioner claims that the information posted on the website, to which the disputed domain name resolves, is false and defamatory. The Petitioner claims that the derogatory information is a result of business rivals trying to defame the Petitioner. Given that the disputed domain name was registered solely for the purpose of disrupting the Petitioner's operations and well-being, the disputed domain name has been registered and used in bad faith.

The Swedish Personal Names Act protects names that are used by less than 2,000 people in Sweden. The Domain Holder is a company registered in Saint Kitts and Nevis, *i.e.* an island in the Caribbean with no connection to Sweden or the Petitioner. The Domain Holder has no rights or justified interest in the disputed domain name.

### B. Domain Holder

The Domain Holder did not file a Response to the Petition.

## 7. Discussion and Findings

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 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 states that the disputed domain name is identical or similar to the Petitioner's name and surname. According to the submitted evidence in the present proceeding, the Petitioner is a British citizen domiciled in Monaco.

Paragraph 30 of the Swedish Personal Names Act (2016:1013) states that a person who has acquired a name in another state within the European Economic Area or in Switzerland by birth, change of marital status or other family law relationship has the right to acquire and register that name in Sweden, if he or she

was a citizen or resident of the other state or had some other special connection there at the time of the acquisition. Paragraph 32, second section, of the Swedish Personal Names Act, states that it is applicable for other foreign citizens resident in Sweden.

Based on the present record, the Petitioner is neither a Swedish citizen, not domiciled in Sweden nor in a in another state within the European Economic Area. The Arbitrator also notes that the Petitioner's surname is not registered with The Swedish Tax Agency. Given that the Petitioner has not provided evidence of any rights to its surname in accordance with paragraph 7.2 of the .se Policy, the Arbitrator concludes that the Petitioner has failed to prove the first condition and therefore the Petition shall be denied.

In view of the above assessment, the Arbitrator finds that there is no reason to examine the second and third conditions.

## **8. Decision**

The Petitioner's claim is denied.

**Johan Sjöbeck**

Date: February 4, 2023