

## **ADMINISTRATIVE PANEL DECISION**

Swedbank AB v. Privacy Protection, Privacy Protection / Michael Nava /or  
Domain Nerdz LLC  
Case No. D2022-2109

### **1. The Parties**

1.1 The Complainant is Swedbank AB, Sweden, represented by CSC Digital Brand Services AB, Sweden (the “Complainant”).

1.2 The Respondent is Privacy Protection, Privacy Protection / Michael Nava /or Domain Nerdz LLC, United States of America (the “Respondent”).

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

2.1 The disputed domain name <swedbank.xyz> (the “Disputed Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

### **3. Procedural History**

3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 10, 2022. On June 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On June 13, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 14, 2022, 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 amended Complaint on June 17, 2022.

3.2 The Center verified that the Complaint together with the amended 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”).

3.3 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 11, 2022.

3.4 The Center appointed Ike Ehiribe as the sole panelist in this matter on August 3, 2022. 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

4.1 The Complainant Swedbank AB has its headquarters in Stockholm, Sweden and was founded in 1820. The Complainant is said to employ more than 16,000 people and is the leading bank in the four primary markets it serves namely Sweden, Estonia, Latvia, and Lithuania. The Complainant has 186 branches in Sweden and 125 branches in the Baltic region as well as global operations across Norway, Finland, Denmark, Luxembourg, China, the United States of America, and South Africa. The Complainant is the owner of a number of trademark registrations for the SWEDBANK trademark registered across various jurisdictions, such as International trademark 900687 SWEDBANK registered on July 12, 2006, and as evidenced by printouts from the Swedish Patent and Registration Office, the European Union Intellectual Property Office (EUIPO), and the United States Patent and Trademark Office (USPTO). The Complainant also owns numerous Domain Names containing the trademark SWEDBANK such as <swedbank.se>, <swedbank.com>, and <swedbank.us>. The Complainant's primary website at "swedbank.com" is said to rank 153,480th globally and has had a total of 307.4K visits in April 2022.

4.2 The Respondent Michael Nava of Domain Nerdz is based in Las Vegas, Nevada in the United States of America. According to the Whois database the Respondent registered the Disputed Domain Name <swedbank.xyz> on April 21, 2022, with the Registrar.

4.3 The Disputed Domain Name resolves to a website in which the Disputed Domain Name is offered for sale for USD 2,988.

#### 5. Parties' Contentions

##### A. Complainant

5.1 The Complainant contends that the Disputed Domain Name is identical and or confusingly similar to the Complainant's SWEDBANK trademark considering that the second level domain of the Disputed Domain Name consists solely of the Complainant's SWEDBANK trademark thereby meeting the requirements of 4(a)(i) of the Policy. See in this regard, *Uniroyal Engineered Products Inc. v. Nauga Network Services*, WIPO Case No. [D2000-0503](#). It is further argued that it is standard practice when conducting a confusing similarity test to not take the generic Top Level Domain ("gTLD") into account following paragraph 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") since the gTLD is considered to be a registration requirement.

5.2 The Complainant contends that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant further argues that the Respondent is not sponsored by or affiliated with the Complainant in any way and neither has the Complainant given the Respondent permission to use the Complainant's trademark in any manner including to use in domain names. The Complainant states further that the Respondent is not commonly known by the Disputed Domain Name which in itself evidences a lack of rights or legitimate interests. In support of this assertion, the Complainant draws attention to the fact that the registrant of the Disputed Domain Name is recorded as "Michael Nava/ or Domain Nerdx LLC", thus, the Respondent cannot be regarded as having acquired rights to or legitimate interests in the Disputed Domain Name within the ambit of paragraph 4(c)(ii) of the Policy following *Moncler S.p.A v Bestinfo*, WIPO Case No. [D2004-1049](#). In addition, the Complainant has not licensed, authorised or permitted the Respondent to register domain names incorporating the Complainant's trademark, therefore in the absence of any license or permission from the Complainant, no actual or contemplated *bona fide* or legitimate use of the Disputed Domain Name could be reasonably claimed by the Respondent following *Sportswear Company S.P.A. v. Tang Hong*, WIPO Case No. [D2014-1875](#). The Complainant also argues that the offer for sale of the

Disputed Domain Name in an amount far in excess of the Respondent's out-of-pocket expenses incurred in registering the Disputed Domain Name, is further evidence of the Respondent's lack of rights or legitimate interests in the Disputed Domain Name following *Spirig Pharma AG v. Whois privacy services provided by DomainProtect/Alexander Zinovjev*, WIPO Case No. [D2014-1612](#).

5.3 On the question of bad faith registration and use the Complainant has advanced the following submissions. In the first instance, it is submitted that the Respondent who is based in the United States of America knew or ought to have known of the existence of the Complainant's well-known trademarks. The Complainant has sold its goods and services since 1820, made first use of the SWEDBANK trademark in 1983, and registered its domain name at <swedbank.com> on September 21, 1998, these three significant steps were all undertaken by the Complainant well before the Respondent's registration of the Disputed Domain Name on April 21, 2022. The Complainant submits further that in this regard, searches on the Internet for the Complainant's SWEDBANK trademark would reveal the Complainant's extensive worldwide reputation and presence on the Internet. See in support *OLX, B.V. Kumud, G / Whois Agent, Whois Agent, Whois Privacy Protection Service, Inc.*, WIPO Case No. [D2015-0218](#). Secondly, the Complainant submits that since the Disputed Domain Name matches exactly the Complainant's trademark, the Disputed Domain Name must have been registered with the intention to cause confusion, mistake and deception among Internet users as to the source of the Disputed Domain Name. Thirdly, it is submitted that since the Respondent is seeking to profit from the sale of a confusingly similar domain name that incorporates the Complainant's trademark, that conduct in itself is further indicative of bad faith use under the Policy. Fourthly, attention is further drawn to the revelation that the Respondent has previously been involved in a number of previous cases where the Respondent has been found to have engaged in a pattern of cybersquatting as a serial cybersquatter, the most recent of such cases being *Fedrigoni S.P.A. v. Michael Nava, Domain Nerdz LLC*, WIPO Case No. [DCO2021-0094](#). Fifthly, it is also submitted that at the time of filing the Complaint the Respondent engaged the services of a privacy service to hide its identity which has been held in previous decisions to be further evidence of bad faith registration and use. See in this regard [WIPO Overview 3.0](#), section 3.6 and *Dr. Ing H.C.F. Porsche AG v Domains by Proxy, Inc.*, WIPO Case No. [D2003-0230](#). Sixthly, the Complainant refers to the Respondent's failure to respond to the numerous cease and desist letters sent to the Respondent as further evidence of bad faith registration and use following *RRI Financial Inc. v Chen*, WIPO Case No. [D2001-1242](#).

## **B. Respondent**

5.4 The Respondent did not reply to the Complainant's contentions, in the circumstances, the Panel shall draw adverse inferences from the failure of the Respondent to reply as it considers appropriate.

## **6. Discussion and Findings**

6.1 Under paragraph 4(a) of the Policy, to succeed in the administrative proceeding, the Complainant must prove that:

- i) the Disputed Domain Name is identical and confusingly similar to the trademark or service mark of the Complainant;
- ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- iii) the Disputed Domain Name has been registered and is being used in bad faith.

6.2 As expressly stated in the Policy the Complainant must establish the existence of each of these three elements in any administrative proceeding.

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

6.3 This Panel finds that the Complainant is a well-known Swedish bank firmly entrenched in Sweden's banking history with substantial international and Internet presence. The Panel equally accepts that the Complainant owns a number of international trademark registrations for the SWEDBANK trademark from

various jurisdictions such as Sweden, the European Union, and the United States of America. Thus, the Panel finds that on a visual examination of the Disputed Domain Name there is no doubt whatsoever that the Disputed Domain Name is identical to the Complainant's SWEDBANK trademark. The Disputed Domain Name consists solely of the Complainant's SWEDBANK trademark. In addition, the Complainant is correct to submit that it is standard practice to ignore the gTLD ".xyz" when conducting a confusing similarity enquiry. See in this regard the detailed discussion on the test for confusing similarity at sections 1.7 of the [WIPO Overview 3.0](#).

6.4 Therefore, the Panel is satisfied that the Complainant has established that the Disputed Domain Name is identical to the Complainant's trademark.

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

6.5 The Panel is equally satisfied that the Respondent has failed to establish that it has rights or legitimate interests in the Disputed Domain Name within the ambit of paragraphs 4(a)(ii) and 4(c) of the Policy. The Respondent is duty bound to provide evidence of such rights and legitimate interests to demonstrate that it is engaged in any actual *bona fide* offering of goods and services or a legitimate noncommercial or fair use of the Disputed Domain Name but has failed to do so. See *Do The Hustle LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#). The Respondent who is not commonly known by the Disputed Domain Name has failed to provide any evidence that it was permitted, licensed or authorised to use the Complainant's trademark to register the Disputed Domain Name, see in this regard *World Natural Bodybuilding Federation Inc. v. Daniel Jones TheDotCafe*, WIPO Case No. [D2008-0642](#). The Complainant has also adduced evidence at Annex 3 of the Complaint, to demonstrate that the Respondent offered the Disputed Domain Name for sale in an amount likely in excess of the Respondent's out-of-pocket expenses incurred at the point of registering the Disputed Domain Name. Such conduct has repeatedly been found to be indicative of a lack of rights and legitimate interests on the part of cybersquatters in previous UDRP decisions.

6.6 The Disputed Domain Name is identical to the Complainant's trademark. Therefore, the Panel finds that the Disputed Domain Name carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

6.7 In the circumstances, the Panel is satisfied that the Complainant has established that the Respondent does not possess any rights or legitimate interests in the Disputed Domain Name as specified in paragraph 4(a)(ii) of the Policy.

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

6.7 Turning to the issue of bad faith registration and use, this Panel has considered a number of compelling factors to equally arrive at the conclusion that the Respondent registered the Disputed Domain Name in bad faith with the singular intention of exploiting the Complainant's trademark and international reputation in the banking sector.

6.8 In the first instance, the Panel finds that it is inconceivable that the Respondent was unaware of the Complainant's pre-existing trademark rights, international reputation and registered domain names associated with the Complainant's SWEDBANK trademark at the time the Respondent elected to register the Disputed Domain Name in April 2022. The Complainant is absolutely correct to draw attention to the chronology of events before the Respondent registered the Disputed Domain Name. In particular, the Panel observes that the Complainant commenced its banking activities as far back as 1820, first made use of its SWEDBANK trademark in 1983, and registered its <swedbank.com> domain name on September 21, 1998. The Panel therefore finds that as submitted by the Complainant any Internet search would have revealed to the Respondent who is based in the United States of America, multiple links referring to the Complainant and its world wide banking business activities before the Respondent chose to register the Disputed Domain Name. See in this regard *Caesar World Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#) finding that the complainant's worldwide reputation and presence on the Internet ought to have been known by the respondent before registering the disputed domain name in that instance. Secondly, the Complainant asserts that the only reason the Respondent must have registered the Disputed Domain Name is that the

Respondent intended to cause confusion, mistake, and deception among Internet users as to the source of the Disputed Domain Name therefore, the Panel must find that the Respondent registered the Disputed Domain Name in bad faith. The Panel finds considerable force in this assertion among numerous others, considering that the Disputed Domain Name incorporates entirely the Complainant's SWEDBANK trademark. Thirdly, the Panel has also taken into account that not only has the Respondent offered the Disputed Domain Name for sale, but is also seeking to sell the Disputed Domain Name for an amount likely in excess of the Respondent's out of pocket expenses incurred at the point of registration. See in this regard *Groupe Auchan v. Bui Tan Dat /Domain ID Shield Service Co. Limited*, WIPO Case No. [D2014-1935](#). Fourthly, the Complainant has drawn attention to five previous UDRP decisions that have held and found the Respondent to have engaged in a consistent pattern of cybersquatting, the most recent of those decisions being in the case of *Fedrigoni, S.P.A v. Michael Nava, Domain Nerdz LLC*, *supra* decided on February 11, 2022; and submits that since the Respondent has an undisputed history of being a serial cybersquatter the Respondent must have registered and used the Disputed Domain Name in bad faith. In this regard, reliance is placed on the decision in *Yale University v. Domain Holding Corp. AS and Eric Keller*, WIPO Case No. [D2013-1404](#). Fifthly, the Respondent evidently engaged the services of a privacy service to hide its identity at the time the initial Complaint was filed, therefore, the Panel finds such conduct when and if taken together with all the matters alluded to above and below supports the finding that the Respondent registered the Disputed Domain Name in bad faith with the intention to embark on bad faith use. Sixthly, the Panel finds that the Respondent's failure to respond to numerous cease and desist letters issued by the Complainant and the Respondent's failure to respond at all, to the submissions of the Complainant in this Complaint all confirm that the Respondent definitely registered the Disputed Domain Name in bad faith and with the intention to engage in bad faith use.

## 7. Decision

7.1 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, <swedbank.xyz>, be transferred to the Complainant.

*/Ike Ehiribe/*

**Ike Ehiribe**

Sole Panelist

Date: August 17, 2022