

## **ADMINISTRATIVE PANEL DECISION**

Vattenfall AB v. James Carey  
Case No. D2022-3206

### **1. The Parties**

The Complainant is Vattenfall AB, Sweden, represented by Zacco Sweden AB, Sweden.

The Respondent is James Carey, United States of America.

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

The disputed domain name <vattnefall.com> is registered with eNom, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 30, 2022. On August 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 30, 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 September 1, 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 amendment to the Complaint on September 1, 2022.

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 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 29, 2022.

The Center appointed Christopher J. Pibus as the sole panelist in this matter on October 21, 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**

The Complainant is a multi-national power company, wholly owned by the Swedish state. It is one of Europe's largest producers of electricity and other power sources. Serving more than 12 million customers in Denmark, Germany, Netherlands, Sweden, and the United Kingdom, it currently has 19,000 employees.

In connection with its energy operations, the Complainant has used and registered the trademark VATTENFALL in Finland since 1993, and in Norway and Sweden since 1994. Its European Union trademark was registered as No. 005376876 on June 12, 2008.

The Complainant has owned and used <vattenfall.com> as its primary domain name since 1996. It uses the sub-domain <group.vattenfall.com> for its corporate website.

The disputed domain name was registered by the Respondent on August 3, 2022. An active website was operated by the Respondent until mid-August 2022, until it was taken down as a result of the Complainant's request to the hosting provider. The Respondent's website was allegedly a nearly identical copy of the Complainant's website which was used in furtherance of a fraudulent invoicing scheme.

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

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

The Complainant submits that it is the owner of long-standing registered rights in the trademark VATTENFALL in Sweden and other European countries where it carries on business. The disputed domain name is confusingly similar to the Complainant's registered trademark, as it is virtually identical except for the transposition of the letters "e" and "n". The Complainant characterizes the misspelling as deliberate typosquatting.

With respect to the absence of rights or legitimate interests, the Complainant submits that the Respondent has engaged in a fraudulent scheme to deceive users who access his website, by copying the content of the Complainant's website and issuing false invoices which purport to originate from the Complainant's business. The Complainant asserts that the Respondent has never been authorized to engage in this conduct or to adopt a confusingly similar domain name. It further submits that the Respondent is not making a *bona fide* offering of services but rather is using the disputed domain name to perpetrate fraud against unknowing users who are deceived by the copycat website and the associated domain name. The Complainant submits that it has put forward clear *prima facie* evidence of the absence of rights or legitimate interests.

With respect to bad faith, the Complainant relies on evidence of the Respondent's look-a-like website, which exactly mirrors the Complainant's own website, to establish that the Respondent has deliberately targeted its business and its distinctive VATTENFALL trademark. Detailed evidence is provided showing an intricate scam perpetrated through the Respondent's website and fraudulent emails, all of which are associated with the disputed domain name. Based on this misconduct, the Complainant submits that there is compelling evidence to support a finding of bad faith.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Complainant clearly owns rights in its VATTENFALL trademark, established through long-term use and multiple registrations in the European countries where it carries on its energy business. With respect to confusing similarity, the Panel finds the disputed domain name is an obvious intentional misspelling of the VATTENFALL trademark, involving the inversion of the letters “e” and “n”. As a clear example of typo-squatting, the disputed domain name can readily be “considered to be confusingly similar to the relevant mark for purposes of the first element” (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), Section 1.9).

Complainant has satisfied paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Although the Policy places on a complainant the burden of proof to establish the absence of rights or legitimate interests, the practice now recognizes that it is often sufficient for a complainant to make out a *prima facie* case, which then shifts the burden to the respondent to bring forward evidence to demonstrate the relevant rights or legitimate interests. Where the respondent fails to produce such evidence, the complainant will be deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

In this proceeding, the Complainant has provided detailed evidence of the Respondent’s misconduct in creating a virtual copy of the Complainant’s website (associated with the disputed domain name) and in generating false invoices in the Complainant’s name, all of which form part of a scheme to deceive users. The totality of the evidence clearly establishes a *prima facie* case of the absence of rights or legitimate interests on the part of the Respondent. Illegal conduct of this nature is highly probative in connection with this issue. “Panels have categorically held that the use of a domain name for illegal activity (e.g. impersonation/passing off or other types of fraud) can never confer rights or legitimate interests on a respondent”. ([WIPO Overview](#) section 2.13.1).

In the absence of any response from the Respondent, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

The Panel finds that the disputed domain name constitutes an abusive registration which was registered and is being used in bad faith. The Respondent clearly set out to target the Complainant and to deceive users into believing that his copycat website associated with the disputed domain name was in fact the website of the Complainant. The Respondent’s website and his related email addresses were cunningly adopted and used to perpetrate a fraudulent invoicing scheme, whereby false emails and invoices were sent to customers in the name of the Complainant. The Respondent went so far as to pursue one of the Complainant’s actual customers to collect payment for a false invoice, which was discovered when the customer reported it to the Complainant. The Complaint includes a set of the relevant email correspondence showing the Respondent contacting the customer claiming to be the Complainant. The authentic invoice originally issued to the customer had been modified by the Respondent to alter the account numbers to which payment was directed to be paid.

[WIPO Overview 3.0](#) (section 3.4) recognizes that this type of abusive conduct is now common, and identifies the use of deceptive emails, copycat websites and the attempt to solicit payment of fraudulent invoices as probative evidence of bad faith (see *Magna International Inc. v. Stefan Polisky*, WIPO Case No. [D2021-0875](#)).

Complainant has satisfied paragraph 4(a)(iii) of the Policy.

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

*/Christopher J. Pibus/*

**Christopher J. Pibus**

Sole Panelist

Date: November 4, 2022