

## **ADMINISTRATIVE PANEL DECISION**

Swedbank AB v. Megan Turner, Oakdale  
Case No. D2022-4324

### **1. The Parties**

The Complainant is Swedbank AB, Sweden, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is Megan Turner, Oakdale, United States of America (“United States”).

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

The disputed domain name <swedbank-groups.com> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2022. On November 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 15, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 November 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 11, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on December 12, 2022.

The Center appointed Olga Zalomiy as the sole panelist in this matter on December 16, 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 owns numerous trademark registration for the well-known SWEDBANK trademark, such as:

- United States Trademark registration No. 1712203 for the SWEDBANK mark, registered on September 1, 1992;
- European Union Trade Mark registration No. 004897567 for the SWEDBANK mark, registered on March 5, 2007.

The Domain Name was registered on August 24, 2022. The Domain Name does not direct to any active website.

On September 22, 2022, the Complainant sent a cease-and-desist letter to the Respondent informing the Respondent about the Complainant's trademark rights and about Respondent's violation of the rights. On September 27, 2022 and October 3, 2022, the Complainant sent two follow-up letters to the Respondent. The Respondent did not respond to any of the Complainant's letters.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant's allegations can be summarized as follows:

The Complainant alleges that it offers banking services in four different markets: Sweden, Estonia, Latvia and Lithuania. The Complainant contends that it owns multiple trademark registrations for the SWEDBANK in various jurisdictions across the world.

The Complainant argues that the Domain Name is identical or confusingly similar to the Complainant's SWEDBANK trademark. The Complainant claims that the Domain Name incorporates the Complainant's SWEDBANK trademark in its entirety. The Complainant contends that the addition of the term "groups" is not sufficient to avoid finding of confusing similarity. The Complainant argues that the inclusion of the word "groups" exacerbates the confusion because the Complainant is known as Swedbank Group as a result of its wholly owned subsidiaries. The Complainant contends that the applicable generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded under the confusing similarity test.

The Complainant states that the Respondent has no rights or legitimate interests in respect of the Domain Name because of the following reasons: 1) the Respondent is not sponsored or affiliated with the Complainant and the Complainant has not permitted the Respondent to use any of its trademarks in any manner, including use in domain names; 2) the Respondent is not commonly known by the Domain Name; 3) the Domain Name does not resolve to any active website and the Respondent has not demonstrated any attempt to make legitimate use of the Domain Name.

The Complainant states that the Respondent's registration and use of the Domain Name constitutes bad faith because (i) the Respondent knew or should have known about the existence of the Complainant's trademarks because the Complainant's trademarks are well-known and registration of a domain name containing well-known trademark is bad faith *per se*; (ii) passive use of the Domain Name is a factor in finding bad faith registration and use; (iii) the Respondent's registration of the Domain Name is indicative of an intention to hold the Domain Name "for some future active use in a way which would be competitive with or otherwise detrimental to the Complainant"; (iv) the Respondent failed to respond to the Complainant's cease-and-desist letter may be considered a factor in finding bad faith registration and use of the Domain Name.

## B. Respondent

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

## 6. Discussion and Findings

Pursuant to paragraph 4(a) of the UDRP, to succeed in this proceeding, the Complainant must prove each of the following elements with respect to the Domain Name:

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

### A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the UDRP, the Complainant must prove that the Domain Name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights.

The submitted evidence shows that the Complainant owns a trademark registration for the SWEDBANK trademark in the United States, the European Union and other countries. Pursuant to section 1.2.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), this satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case.

The Domain Name consists of the Complainant's SWEDBANK trademark, a hyphen, the word "groups" and the gTLD ".com". "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."<sup>1</sup> It is well-established that the applicable gTLD should be disregarded under the confusing similarity test as a standard registration requirement.<sup>2</sup>

Because the Complainant's SWEDBANK trademark is recognizable within the Domain Name, the addition of the hyphen and the word "groups" do not prevent finding of confusing similarity. The gTLD ".com" is disregarded from the assessment of confusing similarity. Therefore, the Domain Name is confusingly similar to the Complainant's SWEDBANK trademark.

The Complainant satisfied the first element of the UDRP.

### B. Rights or Legitimate Interests

To demonstrate rights or legitimate interests in a domain name, non-exclusive respondent defenses under the UDRP, paragraph 4(c) include the following:

- (i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

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<sup>1</sup> Section 1.8., [WIPO Overview 3.0](#).

<sup>2</sup> Section 1.11.1., [WIPO Overview 3.0](#).

(iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

To prove the second UDRP element, the Complainant must make out a *prima facie* case<sup>3</sup> in respect of the lack of rights or legitimate interests of the Respondent.

The Complainant submitted evidence that shows that the Respondent has not been commonly known by the Domain Name. The Respondent has not had a permission or authorization from the Complainant to use the Complainant's trademark in the Domain Name.

Nor has the Respondent used the Domain Name in connection with a *bona fide* offering of goods or services because the Respondent has been passively holding the Domain Name. See, e.g., *Bayerische Motoren Werke AG v. David Weiss, Weiss Ent*, WIPO Case No. [D2017-2145](#).

Therefore, the Complainant has made out the *prima facie* case<sup>4</sup> in respect of the lack of rights or legitimate interests of the Respondent, so the burden of producing evidence demonstrating it has rights or legitimate interests in the Domain Name, has shifted to the Respondent. The Respondent has failed to present any rebutting evidence, so the Panel concludes that the Complainant is deemed to have satisfied the second element of the UDRP.

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

Pursuant to paragraph 4(a)(iii) of the Policy, the Complainant must prove that the Domain Name was registered and is being used in bad faith.

Paragraph 4(b) of the UDRP provides that any one of the following non-exclusive scenarios constitutes evidence of a respondent's bad faith:

(i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the respondent's documented out-of-pocket costs directly related to the domain name; or

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

It is well-established that non-use of a domain name would not prevent a finding of bad faith under certain circumstances.<sup>5</sup> The following circumstances have been considered relevant in applying the passive holding doctrine include, *inter alia*:

(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; and

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<sup>3</sup> Section 2.1, [WIPO Overview 3.0](#).

<sup>4</sup> *Id.*

<sup>5</sup> Section 3.3, [WIPO Overview 3.0](#).

(iii) the implausibility of any good faith use to which the domain name may be put.

All of those circumstances are present in this case. The Complainant's mark is distinctive and previous panels found it to be well-known<sup>6</sup>. The Respondent failed to submit a response or to provide any evidence of actual or contemplated good faith use of the Domain Names. In the Panel's view, any good faith use of the Domain Name is implausible.

Noting the composition of the Domain Name, which consists of the Complainant's well-known mark, the word "groups" that refers to the Complainant's group structure, as well as the fact that the Respondent was apprised of the Complainant's trademark rights on three occasions, it is difficult to conceive of any use that the Respondent might make of the Domain Name without the Complainant's consent that would not involve bad faith. The Respondent's failure to submit a response or to provide any evidence of actual or contemplated good-faith use supports finding of bad faith registration and use.

In view of the above, the Panels finds that the Domain Name was registered and is being used in bad faith. The Complainant satisfied the third element of the UDRP.

## **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 Domain Name, <swedbank-groups.com> be transferred to the Complainant.

*/Olga Zalomiy/*

**Olga Zalomiy**

Sole Panelist

Date: December 30, 2022

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<sup>6</sup> *Swedbank AB v. Privacy Protection, Privacy Protection / Michael Nava /or Domain Nerdz LLC*, WIPO Case No. [D2022-2109](#); *Swedbank AB v. P.I.*, WIPO Case No. [DSE2020-0016](#)