

ADMINISTRATIVE PANEL DECISION

Telefonaktiebolaget LM Ericsson v. luna maya
Case No. D2023-1858

1. The Parties

The Complainant is Telefonaktiebolaget LM Ericsson, Sweden, represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is luna maya, Philippines.

2. The Domain Name and Registrar

The disputed domain name <ericssonopen.org> (the “Domain Name”) is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 26, 2023. On April 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 26, 2023, the Registrar transmitted by email to the Center its verification response registrant and contact information for the Domain Name which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 27, 2023, 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 April 28, 2023.

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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on April 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 19, 2023.

The Center appointed Ian Lowe as the sole panelist in this matter on May 24, 2023. 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 was founded in 1876 and is a leading provider of communications technology and services around the world. In the third quarter of 2020, the Complainant achieved net sales of SEK 57.5 billion and an operating income of SEK 8.6 billion. It employs over 99,000 employees worldwide, across six continents. The Complainant markets and promotes its products and services through its domain name at <ericsson.com>, registered since 1989.

The Complainant is the proprietor of a substantial number of registered trademarks across the world in respect of ERICSSON, including Canada trademark number UCA25436 ERICSSON registered on September 25, 1946, Philippines trademark number 4659 ERICSSON registered on December 29, 2008, and European Union trademark number 4822219 ERICSSON registered on November 10, 2006.

The Complainant also runs the “Ericsson Open Lab”, which was created to provide a space for fast and interactive collaboration and co-creation with communications service providers and ecosystem partners (Annex 5 of the Complaint).

The Domain Name was registered on February 27, 2022. It resolves to a website featuring a number of blog articles on online slot games, and links to several online gambling websites on its “About Us” page.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its ERICSSON trademark (the “Mark”), that the Respondent has no rights or legitimate interests in respect of the Domain Name and that the Respondent registered and is using the Domain Name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (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

The Complainant has uncontested rights in the Mark, both by virtue of its many trademark registrations around the world and as a result of its widespread goodwill and reputation acquired through use of the Mark over almost 100 years. Ignoring the generic Top-Level Domain (“gTLD”) “.org”, the Domain Name comprises

the Complainant's mark together only with the term "open". In the Panel's view, this additional term does not prevent a finding of confusing similarity. Accordingly, the Panel finds that the Domain Name is confusingly similar to a mark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant has made out a strong *prima facie* case that the Respondent could have no rights or legitimate interests in respect of the Domain Name. The Respondent has not used the Domain Name for a *bona fide* offering of goods or services, but for a website featuring blogs on online slot games and with links to a number of online gambling websites. The Complainant has not authorized the Respondent to use the Domain Name and the Panel finds it impossible to conceive of any legitimate use to which the Respondent could put the Domain Name.

The Respondent has chosen not to respond to the Complaint to explain its use of the Domain Name or to take any other steps to counter the *prima facie* case established by the Complainant. In the circumstances, the Panel finds that the Respondent does not have any rights or legitimate interests in respect of the Domain Name.

C. Registered and Used in Bad Faith

In light of the widespread notoriety of the Mark, the Panel is in no doubt that the Respondent had the Complainant and its rights and reputation in the Mark in mind when it registered the Domain Name. In the Panel's view, the Respondent registered the Domain Name for commercial gain with a view to taking unfair advantage of the Complainant's rights in the mark, by confusing Internet users into believing that the Domain Name was being operated by or authorized by the Complainant for legitimate purposes related to the Complainant's activities. The Panel considers that in circumstances where, as indicated above, it is impossible to conceive a legitimate use of the Domain Name in the hands of the Respondent, its use for a website comprising links to online gambling websites amounts to paradigm bad faith for the purposes of paragraph 4(a) of the Policy.

The association between the Mark and gambling content is also likely to tarnish the Complainant's mark.

The Panel accordingly finds that the Domain Name has been registered and is being used in bad faith.

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 <ericssonopen.org> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: June 7, 2023