

ADMINISTRATIVE PANEL DECISION

Telefonaktiebolaget LM Ericsson v. du qiang qiang
Case No. D2023-2827

1. The Parties

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

The Respondent is du qiang qiang, China.

2. The Domain Name and Registrar

The disputed domain name <ericssonchina.net> is registered with Gname 012 inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 3, 2023. On July 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 4, 2023, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 5, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same day, the Center sent another email communication to the Parties in Chinese and English regarding the language of the proceeding. The Complainant filed an amended Complaint on July 10, 2023, which includes a request for English to be the language of the proceeding. The Respondent did not submit any comment on the language of the proceeding.

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 in Chinese and English of the Complaint, and the proceedings commenced on July 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 8, 2023.

The Center appointed Karen Fong as the sole panelist in this matter on August 25, 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, headquartered in Sweden, was founded in 1876 and is a world leading provider of communication technology and services around the world. The company offers services, software and infrastructure in information and communications technology (ICT) for telecommunications operators, traditional telecommunications and Internet Protocol (IP) networking equipment, mobile and fixed broadband, operations and business support services, cable television, IPTV, video systems, and an extensive services operation. It has been behind many innovations in this industry including the development of the first “smartphone” in 1997, bluetooth connectivity in 1998, and research and work on 3G and 4G networks.

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. Further, the Complainant is listed on Nasdaq Stockholm and on NASDAQ in New York. The Complainant employs over 99,000 employees worldwide, across six continents.

The Complainant offers its products and services under the trade mark ERICSSON. It has trade mark registrations across the world including the following:

- Canada Trade Mark Registration No. UCA25436 dated September 25, 1946;
- Chinese Trade Mark Registration No. 3124284 dated June 28, 2003;
- United States of America Trade Mark Registration No. 2665187 dated December 24, 2002;

(together, individually and collectively referred to as the “Trade Mark”).

The Complainant’s website is at its primary domain name, <ericsson.com>, registered since 1989. The website at “www.ericsson.com” received 2.5 million individual visits in June 2022 alone. The Complainant also has strong primary social media profiles. The Complainant has to date 570,179 likes on its Facebook page, 266.7K followers on Twitter and 32.2K followers on Instagram. Through its long history and extensive use of the Trade Mark, the Complainant has established goodwill and reputation in the ERICSSON trade mark and the public has come to associate Trade Mark with the Complainant.

The Respondent appears to be based in China. The disputed domain name was registered on February 10, 2023. The disputed domain name resolves to a website which features advertisements and links to various casino gambling and soccer betting websites (the “Website”).

The Complainant sent cease and desist letters to the Respondent through the Registrar on April 4, 13, and 24, 2023. The Respondent failed to respond.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Trade Mark, that the Respondent has no rights or legitimate interests with respect to the disputed domain name, and that the disputed domain name was registered and is being used in bad faith. The Complainant requests transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for the following main reasons:

- The Complainant is unable to communicate in Chinese and translation of the Complaint would unfairly disadvantage and burden the Complainant and delay the proceeding and adjudication of this matter;
- Such additional delay, considering the obviously abusive nature of the disputed domain name and the Website poses continuing risk to the Complainant and unsuspecting consumers seeking the Complainant or its products;
- The disputed domain name is comprised of Latin characters;
- The term "Ericsson", which is the dominant portion of the disputed domain name, does not carry any specific meaning in the Chinese language;
- The Complainant previously sent cease-and-desist letters to the Respondent who had ample time and opportunity to respond to the letters and request that communications continue in Chinese. The Respondent failed to respond. To allow the Respondent to dictate the course of this matter and further burden the Complainant at this juncture would contravene the spirit of the UDRP and disadvantage the Complainant.

The Respondent has not challenged the Complainant's language request and in fact has failed to file a response in either English or Chinese.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

B. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Trade Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical or confusingly similar to the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, “China” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the Trade Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

C. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, the nature of the disputed domain name is inherently misleading as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

D. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent must have been aware of the Trade Mark when he registered the disputed domain name given the Trade Mark was registered prior to registration of the disputed domain name and the reputation of the Trade Mark. It is therefore implausible that the Respondent was unaware of the Complainant when he registered the disputed domain name.

In the [WIPO Overview 3.0](#), section 3.2.2 states as follows:

“Noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant’s mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant’s mark. Further factors including the nature of the domain name, the chosen top-level domain, any use of the domain name, or any respondent pattern, may obviate a respondent’s claim not to have been aware of the complainant’s mark.”

The fact that there is a clear absence of rights or legitimate interests coupled with the Respondent’s choice of the disputed domain name without any explanation is also a significant factor to consider (as stated in [WIPO Overview 3.0](#), section 3.2.1). The disputed domain name falls into the category stated above and the Panel finds that registration is in bad faith.

The disputed domain name is also being used in bad faith. The Website which has links to gambling and betting sites was set up for the commercial benefit of the Respondent. It is highly likely that Internet users when typing the disputed domain name into their browser, or finding it through a search engine would have been looking for a site operated by the Complainant rather than the Respondent. The disputed domain name is likely to confuse Internet users trying to find the Complainant's website. Such confusion will inevitably result due to the incorporation of the Trade Mark as the most prominent element of the disputed domain name. Such confusion is potentially detrimental to the Complainant. The Respondent employs the fame of the Trade Mark to mislead users into visiting the Website instead of the Complainant's. From the above, the Panel concludes that the Respondent intentionally attempted to attract for commercial gain, by misleading Internet users into believing that the Website is authorised or endorsed by the Complainant. The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith under paragraph 4(b)(iv) of the Policy.

Further, the Panel also notes that the Respondent has been on the wrong side of other UDRP cases concerning a third party brand owners which have resulted in the domain names being ordered to be transferred (for example, *LEGO Juris A/S v. yangwen chao, qiangqiang Du*, WIPO Case No. [D2023-0044](#)). This is an indication that the Respondent is a serial cybersquatter and is engaged in a pattern of bad faith conduct which is an example of bad faith contained in paragraph 4(b)(ii) of the Policy ([WIPO Overview 3.0](#), section 3.1.2).

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <ericssonchina.net> be transferred to the Complainant.

/Karen Fong/

Karen Fong

Sole Panelist

Date: September 22, 2023