

## **ADMINISTRATIVE PANEL DECISION**

Elkjøp Nordic AS v. Mette Frederiksen  
Case No. D2023-4327

### **1. The Parties**

The Complainant is Elkjøp Nordic AS, Norway, represented by Zacco Sweden AB, Sweden.

The Respondent is Mette Frederiksen, Denmark.

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

The disputed domain name <elgiganten.group> (the “Disputed Domain Name”) is registered with Tucows Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 18, 2023. On October 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 19, 2023, the Registrar transmitted by email to the Center its verification 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 October 20, 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 amendment to the Complaint on October 20, 2023.

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 October 24, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 15, 2023.

The Center appointed Mariia Koval as the sole panelist in this matter on November 29, 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, founded in 1962, is a Norwegian company group and is one of the largest electronics retailers in the Nordic countries, with retail businesses established in Norway, Sweden, Denmark, and Finland, and franchise operations in Greenland, Denmark, Iceland, and the Faroe Islands, Denmark. The Complainant is part of Currys Group Ltd. (formerly known as DSG Retail Ltd.), employing over 42,000 people. In total, the Complainant operates 420 stores and several e-commerce websites.

The Complainant's related entities are the owners of numerous registrations for the ELGIGANTEN trademark registrations (the "ELGIGANTEN Trademark"), among which are:

- Danish Trademark Registration No. VR 2005 01853, registered on May 24, 2005, in respect of goods and services in classes 7, 8, 9, 11, 21, 35, 36, and 37;
- European Union Trademark Registration No. 005908678, registered on August 30, 2008, in respect of goods and services in classes 7, 8, 9, 11, 21, 35, 36, and 37; and
- European Union Trademark Registration No. 011148913, registered on March 6, 2013, in respect of goods and services in classes 7, 8, 9, 11, 14, 16, 20, 21, 28, 35, 37.

The Complainant operates several domain names that incorporate ELGIGANTEN Trademark, such as <elgiganten.com>, <elgiganten.dk>, and <elgiganten.se>. The Complainant also established a social media presence and uses the ELGIGANTEN Trademark to promote its goods and services on social media platforms such as Facebook, Instagram, LinkedIn, and YouTube.

The registration date of the Disputed Domain Name is September 4, 2023. Since the filing of the Complaint, the Disputed Domain Name resolves to an active website in Danish with offerings of electronic goods, which is visually similar to the Complainant's official website "www.elgiganten.com".

The Complainant sent a cease and desist letter to the Respondent on October 6, 2023, but no response was received from the Respondent.

#### **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.

The Complainant claims that the Disputed Domain Name is confusingly similar to the ELGIGANTEN Trademark in which the Complainant has rights since the Disputed Domain Name exclusively includes the Complainant's ELGIGANTEN Trademark.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name in view of the following:

- to the Complainant's knowledge, no license or authorization of any other kind has been given by the Complainant to the Respondent to use the ELGIGANTEN Trademark;
- the Respondent is not an authorized representative of the Complainant's products or services and has never had a business relationship with the Complainant; no evidence has been found indicating that the Respondent is using the name "Elgiganten" as a company name or that it has any other legal rights to the name;

- the Respondent is not using the Disputed Domain Name in connection with a *bona fide* offering of goods or services. Instead, the Respondent has intentionally chosen the Disputed Domain Name based on the Complainant's ELGIGANTEN Trademark and fame, in order to generate traffic and income through a website, where the Respondent, in the Complainant's opinion, is claiming to be, or at least represent, the Complainant, using phrasing such as "©2023 Elgiganten A/S" and referring to the Danish company registration number of the Complainant's wholly-owned subsidiary Elgiganten A/S;
- the header of the Respondent's website under the Disputed domain Name includes the Complainant's logotype, a logotype which also is identical to the Complainant's registered ELGIGANTEN Trademark and copyright of the Complainant.

The Complainant further contends that the Respondent registered and is using the Disputed Domain Name in bad faith based on the following. The website under the Disputed Domain Name refers specifically to the Complainant and its brand, products, and services, makes it even more obvious that the Respondent was fully aware of the Complainant and the Complainant's ELGIGANTEN Trademark at the time of registration of the Disputed Domain Name. Accordingly, the Respondent cannot claim to have been using the Disputed Domain Name without being aware of the Complainant's rights to the ELGIGANTEN Trademark.

On October 6, 2023, the Complainant sent a cease and desist letter to the Respondent, requesting that the Disputed Domain Name be transferred to the Complainant. The Respondent chose to not respond.

Consequently, the Respondent, by using the Disputed Domain Name, has intentionally attempted to attract, for commercial gain, Internet users to the Disputed Domain Name, by creating a likelihood of confusion with the Complainant's ELGIGANTEN Trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent.

## **B. Respondent**

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

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, a complainant to succeed must satisfy the panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name was registered and is being used in bad faith.

### **A. 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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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 mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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

## **B. 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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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.

Panels have held that the use of a domain name for illegal activity (here, claimed as impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

There is no evidence that the Complainant has licensed or otherwise permitted the Respondent to use its ELGIGANTEN Trademark or to register the Disputed Domain Name which is confusingly similar to the ELGIGANTEN Trademark.

The composition of the Disputed Domain Name carries a high risk of implied affiliation with the Complainant (see [WIPO Overview 3.0](#), section 2.5.1). The Panel is of opinion that the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name. On the contrary, at the date of this decision and on the date of the filing of the Complaint, the Disputed Domain Name resolves to the active website in Danish, where the electronic products are offered for sale. Moreover, website under the Disputed Domain Name contains the Complainant’s ELGIGANTEN Trademark, copyright notice “©2023 Elgiganten A/S” and reference to the Danish company registration number of the Complainant’s wholly-owned subsidiary. Such use of the Disputed Domain Name obviously strengthens the false impression of an affiliation with the Complainant. Such use of the Disputed Domain Name is further evidence that the Respondent was very well aware of the Complainant’s ELGIGANTEN Trademark and business at the time of registration of the Disputed Domain Name and has done so for the purpose of creating a clear impression that the Disputed Domain Name is connected with the Complainant’s Trademark.

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

## **C. 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 has registered and is using the Disputed Domain Name in bad faith in view of the following.

The Disputed Domain Name was registered long after the Complainant registered its ELGIGANTEN Trademark. The Disputed Domain Name incorporates the Complainant’s ELGIGANTEN Trademark in its

entirety and directs to the website that creates a strong likelihood of confusion with the Complainant's ELGIGANTEN Trademark as to the source, sponsorship, affiliation, or endorsement of the Disputed Domain Name. The Internet users might have well been under the impression that it is a website created and operated by a certified service provider of the Complainant, which is not true. Moreover, such use of the Disputed Domain Name indicates that the Respondent was well aware of the Complainant's activity and ELGIGANTEN Trademark when he registered the Disputed Domain Name. The Panel also is of opinion that the Respondent may also have registered the Disputed Domain Name in order to prevent the Complainant from reflecting the ELGIGANTEN Trademark in a corresponding domain name.

Moreover, the Respondent, having registered and used the Disputed Domain Name that is identical to the Complainant's ELGIGANTEN Trademark, could obtain the personal data and bank details of customers and therefore intended to disrupt the Complainant's business, as well as to confuse the Internet users to believe that the website under the Disputed Domain Name is connected to or approved by the Complainant.

Finally, the Respondent neither responded to the Complainant's cease and desist letter nor the Complainant's contentions and did not participate in this proceeding at all. Previous UDRP panels have considered that a respondent's failure to respond to a complaint supports an inference of bad faith, see *e.g.*, *Champagne Louis Roederer (CLR) v. Global Web Development, LLC*, WIPO Case No. [D2004-1073](#).

Based on the available record, the Panel finds that the Complainant has established the third element 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 <elgiganten.group> be transferred to the Complainant.

*/Mariia Koval/*

**Mariia Koval**

Sole Panelist

Date: December 13, 2023