

ADMINISTRATIVE PANEL DECISION

Elkjøp Nordic AS v. Marie Juan, Mariette
Case No. D2024-2230

1. The Parties

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

The Respondent is Marie Juan, Mariette, France.

2. The Domain Names and Registrar

The disputed domain names <elgiganten-danmark.com>, <elgiganten-dk.co>, <elgiganten-dk.com>, <elgiganten-se.com>, <elgiganten-sverige.com>, <elgiganten-sweden.com>, <elkjop-norge.com> and <elkjop-norway.com> are registered with eNom, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2024. On June 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 4, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 June 5, 2024, 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 June 5, 2024.

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 June 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 28, 2024.

The Center appointed Federica Togo as the sole panelist in this matter on July 4, 2024. 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

It results from the Complainant's undisputed allegations that it is a Norwegian company group founded in 1962, and is an electronics retailer in the Nordic countries, with retail businesses established in Norway, Sweden, Denmark and Finland, and franchise operations in Greenland, Iceland and the Faroe Islands. It is part of Currys Group Ltd. (formerly known as DSG Retail Ltd.), a leading multinational consumer electrical and mobile retailer and services company, employing over 25,000 people in six countries. It consists of around 10,400 employees operating under the brands ELKJØP and ELKJØP Phonehouse in Norway, ELGIGANTEN and ELGIGANTEN Phonehouse in Sweden, ELGIGANTEN in Denmark, GIGANTTI in Finland, ELKO on Iceland, ELDING on the Faroe Islands and PISIFFIK on Greenland. In total, Elkjøp operates 430 stores, several e-commerce websites. It was established in Sweden as Elgiganten Aktiebolag in 1993 and in Denmark as Elgiganten A/S, also in 1993.

It uses the domain name <elkjopnordic.com> for its official website.

The Complainant's parent company Currys Group Limited owns European Union Trade Mark Registration No. 011148913 ELGIGANTEN registered on March 6, 2013 for goods and services in classes 7, 8, 9, 11, 14, 16, 20, 21, 28, 35 and 37 and European Union Trade Mark Registration No. 011148863 ELKJØP registered on March 6, 2013 for goods and services in classes 7, 8, 9, 11, 14, 16, 20, 21, 28, 35 and 37.

In addition, the Complainant uses several domain names that incorporate ELGIGANTEN or ELKJØP, such as <elgiganten.com>, <elgiganten.dk>, <elgiganten.se>, <elkjopnordic.com>, <elkjop.no> among others.

The disputed domain name <elgiganten-danmark.com> was registered on May 2, 2024; the disputed domain name <elgiganten-dk.co> was registered on May 10, 2024; the disputed domain name <elgiganten-dk.com> was registered on April 19, 2024; the disputed domain name <elgiganten-se.com> was registered on May 10, 2024; the disputed domain name <elgiganten-sverige.com> was registered on April 20, 2024; the disputed domain name <elgiganten-sweden.com> was registered on May 2, 2024; the disputed domain name <elkjop-norge.com> was registered on April 19, 2024; the disputed domain name <elkjop-norway.com> was registered on April 24, 2024.

Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain names resolved to websites displaying the Complainant's trademark and logo and purportedly offering for sale products under the Complainant's trademark.

Finally, the Complainant sent a cease-and-desist letter to the Respondent on May 24, 2024. The Respondent did not reply to it.

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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to the Complainant's trademark since they contain its trademark ELGIGANTEN entirely or the term "ELKJØP", which is confusingly similar to the Complainant's mark ELKJØP. The addition of the geographical elements

does not have any impact on the overall impression of the dominant portion of the disputed domain names and is therefore irrelevant.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain names. According to the Complainant, no license or authorization of any other kind has been given by the Complainant to the Respondent to use the trademarks ELKJØP and ELGIGANTEN, and the Respondent is not trading under a name corresponding to the disputed domain names. The Respondent is not using the disputed domain names in connection with a bona fide offering of goods or services. Instead, the Respondent has intentionally chosen the disputed domain names based on the Complainant's trademarks and fame, in order to generate traffic and income through websites, where the Respondent is claiming to be, or at least represent, the Complainant, using phrasing such as "©2024 Elgiganten Danmark", "©2024 Elgiganten Sverige" or "©2024 ELKJOP Norge". Furthermore, the headers of the Respondent's Websites include the Complainant's logotype, which also is identical to the Complainant's registered trademarks and copyright of the Complainant. The Respondent is thus actively attempting to create the impression that the disputed domain names and the Websites are connected to the Complainant, which is not the case.

Finally, the Complainant contends that the disputed domain names were registered and are being used in bad faith. According to the Complainant, the fact that the Websites connected to the disputed domain names refer 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 trademarks at the time of registration. Accordingly, the Respondent cannot claim to have been using the trademark without being aware of the Complainant's rights to them.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to "decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

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.

In accordance with section 1.4.1 of [WIPO Overview 3.0](#), as the Complainant is a subsidiary of the parent company Currys Group Limited that is the owner of the ELGIGANTEN and ELKJØP trademark registrations mentioned above in the Factual Background, the Panel considers that the Complainant has standing to bring this UDRP proceeding.

The entirety of the mark ELGIGANTEN is reproduced within the disputed domain names <elgiganten-danmark.com>, <elgiganten-dk.co>, <elgiganten-dk.com>, <elgiganten-se.com>, <elgiganten-sverige.com>, <elgiganten-sweden.com>. Accordingly, those disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the mark ELKJØP is recognizable within the disputed domain names <elkjop-norge.com> and <elkjop-norway.com>. Accordingly, those disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

In addition, it is the view of this Panel that the simply replacing the letter “Ø” with the letter “O” in the term “ELKJOP” in those disputed domain names results to be a common, obvious, or intentional misspelling of the Complainant’s trademark, and cannot prevent a finding of confusing similarity between the disputed domain names and the Complainant’s trademark since the disputed domain names contain sufficiently recognizable aspects of the relevant mark (see [WIPO Overview 3.0](#) at section 1.9).

Although the addition of other terms (here, “danmark”, “dk”, “se”, “sverige”, “sweden”, “norge”, and “norway”) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 names. 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 names such as those enumerated in the Policy or otherwise.

Moreover, the Panel notes that the disputed domain names contain the Complainant’s registered trademark ELGIGANTEN entirely or a misspelling of the Complainant’s trademark ELKJØP and a geographic term or abbreviation. The nature of those disputed domain names carries a risk of implied affiliation: in fact, geographic terms are seen as tending to suggest sponsorship or endorsement by the trademark owner, see [WIPO Overview 3.0](#) at section 2.5.1

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.

One of these circumstances is that the Respondent by using the disputed domain name, 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

In the present case, the Panel notes that it results from the Complainant's documented allegations that the disputed domain names resolved to websites displaying without authorization the Complainant's trademarks and logo and purportedly offering for sale products under the Complainant's trademarks. For the Panel, it is therefore evident that the Respondent knew the Complainant's marks. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain names included the Complainant's trademarks when it registered the disputed domain names. This is underlined by the fact that the disputed domain names contain the Complainant's registered trademark ELGIGANTEN entirely or a misspelling of the Complainant's trademark ELKJØP and a geographic term or abbreviation.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Finally, the further circumstances surrounding the disputed domain names' registration and use confirm the findings that the Respondent has registered and is using the disputed domain names in bad faith:

- (i) the nature of the disputed domain names (incorporating the Complainant's registered trademark ELGIGANTEN entirely or a misspelling of the Complainant's trademark ELKJØP plus the addition of a geographic term or abbreviation);
- (ii) the content of the websites to which the disputed domain names resolved, displaying the Complainant's trademark and logo, and purportedly offering for sale products under the Complainant's trademark; and
- (iii) a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice of the disputed domain names;
- (iv) the Respondent failed to reply to the cease-and-desist letter.

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 names <elgiganten-danmark.com>, <elgiganten-dk.co>, <elgiganten-dk.com>, <elgiganten-se.com>, <elgiganten-sverige.com>, <elgiganten-sweden.com>, <elkjop-norge.com> and <elkjop-norway.com> be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: July 18, 2024