

ADMINISTRATIVE PANEL DECISION

Elkjørp Nordic AS v. Nikolaos Georgakopoulos
Case No. D2024-2659

1. The Parties

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

The Respondent is Nikolaos Georgakopoulos, Greece.

2. The Domain Name and Registrar

The disputed domain name <elkjop-as.com> (“Disputed Domain Name”) is registered with Enartia Single Member S.A. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 2, 2024. On July 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 3, 2024, 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 8, 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 July 9, 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 July 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 6, 2024.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on August 9, 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

The Complainant is a leading Norwegian consumer electronics and home appliances retail group with a business presence in Norway, Sweden, Denmark and Finland, and franchise operations in Greenland, Iceland and the Faroe Islands. The Complainant owns various word and figurative trademarks for or containing the term “ELKJØP” (“Complainant’s Trademark”).

The relevant trademark registrations include, inter alia, Norwegian Trademark Registration No. 151114 for “ELKJØP” (“” in graphic presentation) registered on June 25, 1992 in Classes 9 and 11; Norwegian Trademark Registration No. 255612 for “Elkjøp” registered on May 21, 2010 in Classes 7, 8, 9, 11, 14, 21 and 37; and European Union Trademark Registration No. 011148863 for “” registered on March 6, 2013 in Classes 7, 8, 9, 11, 14, 16, 20, 21, 28, 35 and 37.

The Complainant’s Trademark is also fully incorporated in the Complainant’s domain names, inter alia, <elkjop.com> registered on November 12, 1996, <elkjop.no> registered on November 29, 2012, and <elkjopnordic.com> registered on August 21, 2014, each resolving to the Complainant’s respective websites (“Complainant’s Websites”).

The Disputed Domain Name was registered by the Respondent on April 8, 2024. The Disputed Domain Name has been used to impersonate a Complainant’s employee, both in person and via email. At the time of the decision, the Disputed Domain Name resolved to an inactive website which displayed a message that reads “Forbidden – You don’t have permission to access this resource. Additionally, a 403 Forbidden error was encountered while trying to use an ErrorDocument to handle the request”.

On June 25, 2024, the Complainant sent a cease and desist letter (“C&D Letter”) to the Respondent via Whois contact form, requesting the Respondent to, inter alia, disconnect the Disputed Domain Name and transfer the same to the Complainant voluntarily free of charge. At the time when the Complaint was filed, the Complainant had yet to receive any response.

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:

(a) The Disputed Domain Name is confusingly similar to the Complainant’s Trademark. The Disputed Domain Name incorporates the Complainant’s Trademark in its entirety. Moreover, the addition of the term “as” to the Disputed Domain Name does not distinguish it from the Complainant’s Trademark as “AS” is merely an abbreviation of “aksjeselskap”, the Norwegian term for joint-stock company. There is a significant risk that the public will believe that the Disputed Domain Name is either owned by the Complainant or is commercially related to the Complainant.

(b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant has given no license or authorisation of any kind to the Respondent to use the Complainant’s Trademark; nor is there any information indicating that the Respondent is trading under a name corresponding to the Disputed Domain Name or has any legal rights to the Complainant’s Trademark. Moreover, the Respondent is not using the Disputed Domain Name in connection with a bona fide offering of goods or services, but

rather has intentionally chosen the Disputed Domain Name on the basis of the Complainant's Trademark and brand for the purpose of fraud and impersonation. This is evidenced by the Respondent misrepresenting himself as an employee of the Complainant at business conferences and trade shows, distributing fake business cards containing an email address with the Disputed Domain Name ("Respondent's Email Address") to unsuspecting third parties.

(c) The Respondent has registered the Disputed Domain Name and is using it in bad faith. The Complainant's registration of the Complainant's Trademark significantly precedes that of the Respondent's registration of the Disputed Domain Name. The Respondent was clearly fully aware of the Complainant and the Complainant's Trademark at the time of registering the Disputed Domain Name, and was motivated by the fame and value of the Complainant's Trademark and brand to register and use the Disputed Domain Name. The Respondent's fraudulent behaviour shows its bad faith intentions, as the Respondent impersonated the Complainant's employee and distributed fake business cards with the Respondent's Email Address, and sent a fraudulent email to an unsuspecting third party asking for information as to the third party's list of goods as well as products in stock. The bad faith intention is further supported by the Respondent's lack of response to the Complainant's C&D Letter and the continued holding of the registration of the Disputed Domain Name following receipt of the same. The Respondent is therefore intentionally using the Disputed Domain Name to attract, for commercial gain, Internet users to the Respondent's Website by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation or endorsement of the Disputed Domain Name and the Respondent's Website. The Respondent's registration and use of the Disputed Domain Name constitutes a clear case of cybersquatting.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent 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.

The Complainant has shown rights in respect of the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's Trademark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, in this case “as” (an abbreviation of the Norwegian term for joint-stock company, “aksjeselskap”), 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 Complainant’s Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. Furthermore, it is well established that the generic Top-Level Domain (“gTLD”), “.com” in this case, may be disregarded for the purpose of assessing confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.11.1.

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.

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become known by the Disputed Domain Name. There is no evidence to suggest that the Respondent’s use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name, is in connection with a bona fide offering of goods or services, or should be regarded as legitimate noncommercial or fair use.

Panels have held that the use of a domain name for illegal activity, such as in this case phishing and the impersonation or passing off by the Respondent using the Complainant’s Trademark, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1. Furthermore, given the evidence of the Respondent’s phishing and impersonation or passing off in this case, the Panel finds it difficult to conceive that the Respondent would not have adopted the Complainant’s Trademark if not for the purpose of creating an impression that the Disputed Domain Name is associated with, or originates from, the Complainant.

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 it is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that it has incorporated the Complainant's Trademark in its entirety and has engaged in illegal activities involving the use of the Disputed Domain Name, including the impersonation of the Complainant's employee both in person and via email. Also, as discussed above, the Respondent lacks any rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)). Further, the Respondent failed to respond to the Complainant's contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

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. Having reviewed the available record, the Panel finds that the Respondent's failure to respond to the Complainant's C&D Letter and its continued registration of the Disputed Domain Name after receiving said letter should be taken into consideration in a finding of bad faith (see *LEGO Juris A/S v. Colin Heggie*, WIPO Case No. [D2011-1304](#)).

At the time of this decision, the Disputed Domain Name resolves to an inactive website. However, panels have nonetheless found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Although panelists will look at the totality of the circumstances in each case, key factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's trademark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement); and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Bearing in mind the distinctiveness and reputation of the Complainant's Trademark, the failure of the Respondent to submit any response to the Complaint, as well as the composition of the Disputed Domain Name, the Panel finds that in the circumstances of this case, the passive holding of the Disputed Domain Name does not prevent a finding of bad faith under the Policy.

Panels have held that the use of a domain name for illegal activity, such as in this case phishing and the impersonation or passing off by the Respondent using the Complainant's Trademark, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

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 <elkjob-as.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: August 23, 2024