

## **ADMINISTRATIVE PANEL DECISION**

**ABB Asea Brown Boveri Ltd. v. ABBLES ABBLES, ABBLES**  
Case No. D2024-3802

### **1. The Parties**

The Complainant is ABB Asea Brown Boveri Ltd., Switzerland, represented by Taylor Wessing Partnerschaftsgesellschaft mbB, Germany.

The Respondent is ABBLES ABBLES, ABBLES, United States of America ("US").

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

The disputed domain name <abblesc.com> is registered with Amazon Registrar, Inc. (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 18, 2024. On September 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 21, 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 (Unknown / On behalf of abblesc.com owner, Identity Protection Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 27, 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 September 30, 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 October 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 23, 2024.

The Center appointed Stefan Bojovic as the sole panelist in this matter on October 30, 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 operates in the field of power and automation technology with over 100,000 employees in over 100 countries worldwide. The Complainant's products and services include, inter alia, products from the areas of high, medium and low voltage, industrial automation and comprehensive services in these areas.

The Complainant's products and services are presented and advertised on the Complainant's websites at "www.global.abb" and "www.new.abb.com".

The Complainant is the owner of number of registered trademarks for the ABB trademark, including the following:

- International trademark registration No. 781685 for ABB, registered on March 27, 2002;
- United Kingdom trademark registration No. UK00902629673 for ABB, registered on December 21, 2006;
- European Union trademark registration No. 002629673 for ABB, registered on December 21, 2006;
- European Union trademark registration No. 002628964 for ABB (word/device), registered on November 21, 2003.

The disputed domain name was registered on June 16, 2024, and at the time of filing of the Complaint, it resolved to a website that prominently displayed the Complainant's ABB trademark and logo, presenting different options for investment in new energy industry. This website also prominently stated on the frontpage "Welcome to ABB". At the time of the Decision, the disputed domain name resolves to a webpage stating that "The website has been stopped" and "Sorry, This site has been stopped by the administrator. Please contact the administrator for details."

#### **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 was used for a scam website that uses the Complainant's well-known ABB trademark and ABB figurative mark. The content of this website indicates that third parties can invest in the new energy industry with the Respondent. The Complainant has produced the evidence that at least one individual has been the victim of the scam associated with this website and has invested substantial amount of money, falsely believing to be making an investment with the Complainant.

Regarding the first UDRP element, the Complainant contends that the disputed domain name is confusingly similar to its ABB trademark, which is recognizable within/at the beginning of the second-level portion of the disputed domain name, namely "abblesc". Additionally, the Complainant underlines that the prominent use of ABB trademark and logo on the website to which the disputed domain name resolves should be taken into account when assessing the similarity in accordance with the well-established UDRP practice.

With reference to rights or legitimate interests in respect of the disputed domain name, the Complainant contends that the Respondent has used the disputed domain name to resolve to a fraudulent website aimed at attracting money from Internet users under the false pretense that they are investing with the Complainant. Such conduct cannot constitute legitimate interest in the disputed domain name on the Respondent's side. Further, the Complainant indicates that the Respondent has published the incorporation document of the company ABB ENERGY SOLUTIONS LTD from the United Kingdom on the website to which the disputed domain name used to resolve. This company was incorporated approximately two weeks before the registration of the disputed domain name. Although the Respondent's connection with this company is not clear, the Complainant holds that if this is the company of the Respondent, such company cannot create the legitimate interest on the Respondent's side since the name of the company is clearly infringing the Complainant's trademark and since the company was incorporated shortly before the registration of the disputed domain name, presumably with the aim to falsely create the legitimate interest in the disputed domain name.

With reference to the circumstances evidencing registration and use of the disputed domain name in bad faith, the Complainant states that the mere fact that the Respondent registered the disputed domain name that is highly similar to the well-known ABB trademark and that the Respondent is copying the Complainant's well-known figurative mark on the website shows that the Respondent acted in bad faith. Further, the use of the disputed domain name for the fraudulent website, as well as documented case of fraud associated with the disputed domain name, clearly indicates the use of the disputed domain name in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 15(a) of the Rules: "A Panel shall 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 stipulates that the complainant must prove each of the following:

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

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 second-level portion of the disputed domain name consists of the Complainant's ABB trademark followed by the portion "lesc". The Panel finds the Complainant's trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel also deems that the content of the former website associated with the disputed domain name confirms confusing similarity with the Complainant's trademark, having in mind that based on such content it is rather clear that the Respondent seeks to target the Complainant's trademark through the disputed domain name. [WIPO Overview 3.0](#), section 1.15.

In addition, it is well established that the generic Top-Level Domain ".com", can be disregarded in the assessment of the confusing similarity between the disputed domain name and the Complainant's trademark. [WIPO Overview 3.0](#), section 1.11.1.

The Panel, therefore, finds that 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 notes that there seems to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's ABB trademark. There appears to be no element from which the Panel could infer the Respondent's rights and legitimate interests in the disputed domain name.

On the contrary, based on the undisputed evidence provided by the Complainant, the Respondent has used the disputed domain name to impersonate the Complainant through a fraudulent website to which the disputed domain name used to resolve. The content of this website indicated that third parties can invest in the new energy industry with the Respondent. The Complainant has produced the evidence that at least one individual has been the victim of the scam associated with this website and has invested substantial amount of money, falsely believing to be making an investment with the Complainant. Panels have held that the use of a domain name for illegal activity, such as fraud can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel has also taken into account that the information about the company ABB ENERGY SOLUTIONS LTD from the United Kingdom was present on the website to which the disputed domain name used to resolve, but has concluded that the same is not relevant for determining existence of the rights and/or legitimate interests on the Respondent's side. Although the Complainant has raised this issue in the Complaint and expressed certain concerns that this company might be the company of the Respondent, the Panel does not agree that there is a connection between this company and the Respondent and holds that there is not sufficient evidence on file to make such conclusion. First, the Respondent in these proceedings is different from the company ABB ENERGY SOLUTIONS LTD, as well as from its officers and shareholders. Further, the Respondent has failed to provide its response and consequently to provide information on the

nature of its connection with this company (if any) and to explain why this company is referenced on the website to which the disputed domain name used to resolve. Finally, although the company ABB ENERGY SOLUTIONS LTD appears to be genuine company duly registered in the United Kingdom, the Panel cannot determine whether this company consented to be referenced on the website to which the disputed domain name used to resolve, or whether the Respondent has abused the data of this company.<sup>1</sup>

In the light of the above circumstances, the Panel finds that merely mentioning the company ABB ENERGY SOLUTIONS LTD on the website to which the disputed domain name used to resolve is insufficient to establish the connection of this company with the Respondent and consequently, the Panel cannot take into account potential rights or legitimate interest based on the existence of this company.

Having in mind the above, 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.

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.

In the present case, the Panel notes that the Respondent must have been well-aware of the Complainant and its ABB trademark at the time of the registration of the disputed domain name. The content of the website to which the disputed domain name used to resolve leaves no room for a doubt on the Respondent's knowledge of the Complainant and its ABB trademark and evidences that the Respondent actually had the Complainant in mind when registering the disputed domain name. It should be also borne in mind that that the registration and use of ABB trademark predates the registration of the disputed domain name for decades, making it unlikely that the Respondent was not aware of the Complainant's trademark at the time of registration of the disputed domain name.

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

As indicated above, the Respondent has used the disputed domain name for fraudulent activities in order to impersonate the Complainant through a fraudulent website to which the disputed domain name used to resolve. The Complainant has produced the evidence that, at least one individual has been the victim of the scam associated with this website and has invested substantial amount of money, falsely believing to be making an investment with the Complainant. Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off) 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.

While the disputed domain name no longer resolves to an active website, such inactivity does not prevent a finding of bad faith given the totality of the circumstances here. [WIPO Overview 3.0](#), section 3.3.

Therefore, the Panel finds that the disputed domain name has been both registered and is being used in bad faith, and consequently that the Complainant has established the third element of the Policy.

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<sup>1</sup>The Panel takes note of the fact that this company was incorporated approximately two weeks before the registration of the disputed domain name, but holds that, despite the peculiar timing, this still cannot be observed as conclusive evidence of connection with the Respondent.

## 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 <abblesc.com> be transferred to the Complainant.

*/Stefan Bojovic/*

**Stefan Bojovic**

Sole Panelist

Date: November 14, 2024