

ADMINISTRATIVE PANEL DECISION

Telefonaktiebolaget LM Ericsson v. Domain Administrator,
Fundacion Privacy Services LTD
Case No. D2022-0851

1. The Parties

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

The Respondent is Domain Administrator, Fundacion Privacy Services LTD, Panama.

2. The Domain Names and Registrar

The disputed domain names <ericsson.net> and <myericson.com> are registered with Media Elite Holdings Limited dba Register Matrix (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 11, 2022. On March 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 13, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 March 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was April 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 11, 2022.

The Center appointed Manuel Moreno-Torres as the sole panelist in this matter on April 19, 2022. 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 worldwide provider of communication technology and services that employs over 99,000 employees worldwide. The Complainant is listed on the New York and Stockholm NASDAQ indexes and enjoys a large number of trademark registrations for its ERICSSON mark in different jurisdictions, including Australian registration number 322638 (registered on October 3, 1978), European Union registration number 000107003 (registered on March 23, 1999), and United States of America registration number 1313196 (registered on January 8, 1985). Complainant owns and operates the domain name <ericsson.com>, registered since 1989.

The ERICSSON trademark is to be considered a well-known trademark for the purposes of the UDRP.

The disputed domain name <ericsson.net> was registered on October 16, 2020 and the disputed domain name <myericson.com> was registered on January 22, 2021. The disputed domain names have been used for a parking page with pay-per-click links.

5. Parties' Contentions

A. Complainant

The Complainant contends to be the owner of the ERICSSON trademark in different jurisdictions. The disputed domain name <ericsson.net> is a misspelling of Complainant's ERICSSON trademark and must be considered confusingly similar to the Complainant's trademark. The Complainant refers to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 1.9 to support his claim. The disputed domain name varies from the Complainant's trademark by only two letters, repeating the letter "c" and omitting the repeated letter "s".

With regards to the disputed domain name <myericson.com> the Complainant considers that the mere addition of the word "my" to the one letter misspelling version of Complainant's trademark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark under the Policy. The Complainant relies on [WIPO Overview 3.0](#), section 1.8.

The Complainant alleges that the Respondent is not sponsored by or affiliated with the Complainant in any way. The Complainant has not given the Respondent permission to use its trademark in any manner, including in domain names. The Complainant further holds the Respondent is not commonly known by the disputed domain names which evidences the lack of rights or legitimate interests.

Further, the Complainant highlights how the Respondent is using the disputed domain names to redirect internet users to websites featuring links to third-party websites, some of which directly compete with the Complainant's business. The Complainant further alleges that the Respondent is receiving pay-per-click fees from the linked websites that are listed at the disputed domain names. The Complainant refers to prior UDRP decisions that have consistently held that respondents that monetize domain names using pay-per-click links have not made a *bona fide* offering of goods or services that would give rise to rights or legitimate interests in a disputed domain name.

Besides, the Complainant claims that by using the disputed domain names for a parking page website with a link to another website inviting offers to purchase such domain names the Respondent is not showing any rights or legitimate interests in respect of the disputed domain names.

Finally and in respect to the third requirement under the Policy, the Complainant notes that since 1876 it has marketed and sold its goods and services using the ERICSSON trademark, well before the Respondent's registration of the disputed domain names between October 2020 and January 2021. Thus, the Complainant's trademarks are famous and well-known and the Respondent has no connection with the latter, which registration suggests bad faith.

The Complainant also notes that typosquatting has been taken as evidence of bad faith registration and use by panels in past decisions. Moreover, the Complainant refers to paragraph 4(b)(iv) of the Policy since the Respondent has “intentionally attempted to attract, for commercial gain, Internet users to [Respondent’s] website...by creating a likelihood of confusion with the complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the web site or location of a product or service on [Respondent’s] website or location”. The Complainant argues that the Respondent creates a likelihood of confusion with the Complainant and its trademarks by registering domain names that incorporate misspellings of the Complainant’s ERICSSON trademark, and adding the term “my” in the case of <myericson.com>. This demonstrates that the Respondent is using the disputed domain names to confuse unsuspecting internet users looking for the Complainant’s services, and to mislead internet users as to the source of the domain names and websites.

On the other hand, the Complainant states that the Respondent has been involved in other cybersquatting cases and this evidences a pattern of conduct.

In addition, the Complainant claims that the Respondent currently holds registrations for several other domain names that misappropriate the trademarks of well-known brands and businesses and is offering to sell them which constitutes bad faith under the Policy paragraph 4(b)(i). This fact demonstrates that the Respondent is engaging in a pattern of cybersquatting/typosquatting.

The Respondent’s use of a privacy service to hide its identity is further evidence of bad faith registration and use, and Respondent has ignored Complainant’s attempts to resolve this dispute outside of the administrative proceeding.

B. Respondent

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

6. Discussion and Findings

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

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the 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.

There are no exceptional circumstances within paragraph 5(f) of the Rules to prevent the Panel from determining the dispute based upon the Complaint, notwithstanding the failure of the Respondent to file a Response. Under paragraph 14(a) of the Rules in the event of such a “default” the Panel is still required “to proceed with a decision on the complaint”, whilst under paragraph 14(b) it “shall draw such inferences there from as it considers appropriate”. This dispute resolution procedure is accepted by the domain name registrant as a condition of registration.

A. Identical or Confusingly Similar

The Complainant has shown undisputed trademark rights for the purpose of the administrative proceeding, and the first element focuses on the standing test for identical or confusingly similarity. That is to say, “a comparison between the complainant’s trademark and the disputed domain name”. See [WIPO Overview 3.0](#), section 1.7. The Panel has compared both disputed domain names with the ERICSSON trademark and the exam leads to the conclusion that this is an obvious case of misspelling the ERICSSON trademark. Indeed, the disputed domain names contains sufficiently recognizable aspects of the ERICSSON trademark.

Regarding the disputed domain name <myericson.com> the addition of “my” does not prevent a finding of confusing similarity. Accordingly, the Panel finds that the disputed domain names <ericsson.net> and <myericson.com> are confusingly similar to the Complainant’s ERICSSON trademark.

Therefore, the first requirement is met under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy records a number of situations in which the Respondent may demonstrate rights or legitimate interests in the disputed domain name:

“Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

Given the silence of the Respondent, it is well established that a complainant may establish this element by making out a *prima facie* case, that the respondent has no rights or legitimate interests in a domain name. This has happened in the present case, according to the allegations and evidence on file. The Panel accepts the lack of sponsorship or affiliation with the Complainant or, the lack of authorization to use the Complainant’s trademark in any manner.

Moreover, there is no evidence in the file suggesting that the Respondent is commonly known by the disputed domain names. Under these circumstances and having in mind the well-known value of the ERICSSON trademark neither the use of pay-per-click (“PPC”) links in the corresponding sites to which the disputed domain names redirect, nor the attempt to sell the disputed domain names, may be deemed legitimate for the purpose of the Policy.

Since the Respondent has failed to rebut the *prima facie* case established by the Complainant, the Panel finds that the Complainant has carried out its burden as described in paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

As set out in section 3.1. [WIPO Overview 3.0](#): “bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complaint’s mark”. Paragraph 4(b) provides a list of non-exclusive scenarios that constitutes evidence of a respondent’s bad faith.

Having in mind the long-standing use of the Complainant’s trademark and the lack of relationship between the parties in the case, it is reasonable to infer that the Respondent was likely to be aware of the Complainant’s rights and activities or at the very least, he knew or should have known about the Complainant. Under these circumstances, the registration is to be deemed in bad faith.

Furthermore, the Panel also notes that the ERICSSON trademark is reproduced with minor typographical mistakes in the disputed domain names, which give rise to a common, obvious or intentional misspelling practice known as typosquatting. Previous panels have found that using misspelling in this way signals an intention on the part of the respondent to confuse users who are seeking or expecting the complainant and such practice is to be considered bad faith. See *Twitter, Inc. v. Ahmet Ozkan*, WIPO Case No. [D2014-0469](#).

In this sense, the Respondent is using the disputed domain names to intentionally attract, for commercial gain, Internet users to the websites linked to the disputed domain names to bait Internet users and redirect them to PPC websites where, purportedly, the Respondent is obtaining revenues. Such activity is considered to be in bad faith under the Policy.

In conclusion, the file shows no indication of the Respondent's good faith. On the contrary, the Panel finds that the Respondent tries to take advantage of a well-known trademark as it is the ERICSSON trademark. The lack of response to the cease and desist letter or the use of a proxy service reinforce such finding.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(iii) 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, <ericsson.net> and <myericson.com> be transferred to the Complainant.

/Manuel Moreno-Torres/

Manuel Moreno-Torres

Sole Panelist

Date: May 3, 2022