

# Alternative Dispute Resolution (ADR)

**DECISION**

October 23, 2013

**CASE NUMBER**

688

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**APPLICANT**

TechCrunch, Inc. (Corp. Reg. No 3531218)

2711 Centerville Road Suite 400

19808 Wilmington, New Castle

USA

**Counsel:**

Zacco Sweden AB

Östra Hamngatan 5

40122 Göteborg

**DOMAIN HOLDER**

Brands-and-Jingles / MAKTIG (Corp. Reg. No. [GB]Brands-and-Jingles)

Att. Mark K

12 Kimberley Gardens

N41LF London

Great Britain

**MATTER**

Alternative dispute resolution regarding the domain names <crunchba.se> and <crnchb.se>.

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**DECISION**

The domain names <crunchba.se> and <crnchb.se> shall be transferred to the Applicant.

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## **BACKGROUND TO THE DISPUTE**

The Applicant is since June 12, 2012, the holder of a CTM registration of the trademark CRUNCHBASE.

The Domain Name Holder applied for registration and on May 22, 2013, was registered as holder of <crunchba.se> and <crnchb.se>.

The Domain Name Holder has offered to transfer the domain names to the Applicant under certain conditions eg. that the counsel for the Applicant provided sufficient evidence that it really represented the Applicant. The counsel has filed a Power of Attorney including a right for it to obtain on Applicants behalf registration of the domain names <crunchbase.se> and <crunchb.se>. The Domain Name Holder did not find this to be sufficient evidence in order to voluntarily transfer the domain names.

## **CLAIMS**

The Applicant claims that <crunchba.se> and <crnchb.se> shall be transferred to the Applicant.

## **FINDINGS OF THE ARBITRATOR**

According to Section 7.2 of the Terms and Conditions and Rules for registering .se-domain names with .SE a domain name may transferred to the Applicant under condition that the following three requirements are met.

- a) The disputed domain name is identical or similar to eg. a trademark which is legally binding in Sweden and to which the applicant can prove its rights
- b) The disputed domain name has been registered or used in bad faith.
- c) The domain name holder has no rights or justified interest in the domain name.

The Adjudicator makes the following assessment.

## **THE VALIDITY OF THE POWER OF ATTORNEY OF THE COUNSEL FOR APPLICANT**

The Domain Name Holder has questioned whether the Power of Attorney for Applicant is valid. Under the rules for ADR a party representing an applicant is not required to file a power of attorney in order to be able to represent an applicant. The counsel for the Applicant is Zacco Sweden AB. Zacco Sweden AB is a well known patent- and trademark agency in Sweden that has represented several applicants as well as domain name holders in ADR proceedings. The Adjudicator does therefore see no reason to question that the filed Power of Attorney is valid or excludes the counsel from representing the Applicant regarding ADR for <crunchba.se> even though the Power of Attorney states that it regards the domain names <crunchbase.se> and <crnchb.se> and not <crunchba.se>.

### **DOES THE APPLICANT HOLD A RIGHT TO EG. A TRADEMARK THAT IS LEGALLY BINDING IN SWEDEN?**

The Applicant has presented evidence that it is the holder of a CTM registration to the trademark CRUNCHBASE. The Applicant has therefore proven that it holds a trademark right that is valid and legally binding in Sweden.

### **ARE THE DISPUTED DOMAIN NAMES IDENTICAL OR SIMILAR TO THE APPLICANTS TRADEMARK?**

The Adjudicator finds that the domain names <crunchba.se> and <crnchb.se> including or excluding the TLD .se are sufficiently similar to the Applicants trademark CRUNCHBASE. The first requirement for a transfer of the domain names is thus fulfilled.

### **HAS THE APPLICANT REGISTERED OR USED THE DISPUTED DOMAIN NAMES IN BAD FAITH?**

The Domain Name Holder has acknowledged that it registered the domain names in order to protect them for one of the co-founders of the Applicant with the intent to transfer them to him on his birthday in August 2013. On July 12, 2013, the Domain Name Holder was informed that the co-founder had transferred all his shares in the Applicant to AOL Inc.

The Applicant claims that the Domain Name Holder used the disputed domain names as URL for a website. The Domain Name Holder has not rejected this claim but only claimed that the website was construed as a presentation material for its Board of Directors. However, the website was connected to and accessible for Internet users which would not have been necessary if the website was only a presentation material for the Board. Based on these findings the Adjudicator finds that the Domain Name Holder has at least used the disputed domain names in bad faith.

### **HAS THE DOMAIN NAME HOLDER ANY RIGHTS OR JUSTIFIED INTEREST IN THE DOMAIN NAMES?**

It is the Domain Name Holder that has to show that it has a right or justified interest in the domain names. The Domain Name Holder has not even claimed that it has any own rights or justified interest in the domain names. The Adjudicator therefore finds that the Domain Name Holder has no right or justified interest in the domain name.

### **FINDING**

The Holder has claimed that it registered the disputed domain names in order to protect them from being registered by any other party than the Applicant. The Domain Name Holder has claimed that it wished to transfer the domain names voluntarily to the Applicant but could not do this because it was not sufficiently satisfied that the counsel for the Applicant really represented the Applicant and has left the issue of trying that matter to the Adjudicator.

The Adjudicator has found that there are no reasons to question that the counsel for the Applicant has the right to represent it in this matter. The Domain Name Holder has at least used the domain names in bad faith and has not even claimed that it has any own right or

justified interest in the domain names. The domain names <crunchba.se> and <crnchb.se> shall therefore be transferred to the Applicant.

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On behalf of .SE

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[Monique Wadsted]