

**Before the:**

**WORLD INTELLECTUAL PROPERTY ORGANIZATION  
ARBITRATION AND MEDIATION CENTER**

*HEDERA AB  
Stora Södergatan 31,  
SE-222 23 LUND  
SWEDEN*

**(Complainant)**

-v-

*Support Desk  
CAPTIVE MEDIA  
3943 Irvine Blvd, Suite 56  
Irvine, CA 92602-2400  
UNITED STATES OF AMERICA*

**(Respondent)**

**Disputed Domain Name(s):**

*<stabletable.com>*

**COMPLAINT**

(Rules, Paragraph 3(b); Supplemental Rules, Paragraphs 4(a), 12(a), Annex E)

**I. Introduction**

[1.] This Complaint is hereby submitted for decision in accordance with the Uniform Domain Name Dispute Resolution Policy (the **Policy**), approved by the Internet Corporation for Assigned Names and Numbers (**ICANN**) on October 24, 1999, the Rules for Uniform Domain Name Dispute Resolution Policy (the **Rules**), approved by ICANN on October 30, 2009, and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the **Supplemental Rules**).

## **II. The Parties**

### **A. The Complainant**

(Rules, Paragraphs 3(b)(ii) and (iii))

[2.] The Complainant in this administrative proceeding is *HEDERA AB, Stora Södergatan 31, SE-222 23 Lund, SWEDEN*, a limited company incorporated under the laws of Sweden.

[3.] The Complainant's contact details are:

Address: *Stora Södergatan 31, SE-222 23 Lund, SWEDEN*  
Telephone: *+46 (0)46-15 15 50*  
E-mail: *info@stabletable.se*

[4.] The Complainant's authorized representative in this administrative proceeding is:  
*Advokat Susanne Lindeskog*

Firm: *Advokatbyrån Gulliksson AB*  
Address: *PO Box 4171, 203 13 Malmö, Sweden*  
Telephone: *+46 (0)40-664 44 59*  
Fax: *+46 (0)40-23 17 65*  
  
E-mail: *susanne.lindeskog@gulliksson.se*

[5.] The Complainant's preferred method of communications directed to the Complainant in this administrative proceeding is:

#### Electronic-only material

Method: *e-mail*  
Address: *susanne.lindeskog@gulliksson.se*  
Contact: *Susanne Lindeskog*

#### Material including hardcopy (where applicable)

Method: *Fax or post/courier*  
Address: *PO Box 4171, 203 13 Malmö, Sweden*  
Fax: *+46 (0)40-23 17 65*  
Contact: *Susanne Lindeskog*

**B. The Respondent**

(Rules, Paragraph 3(b)(v))

- [6.] According to the WHOIS service of <domaintools.com>, the Respondent in this administrative proceeding is *Support Desk* at the company CAPTIVE MEDIA, 3943 Irvine Blvd, Suite 56, Irvine, CA 92602-2400, United States of America.

Copies of the printout of the database search conducted on 3 December 2013 are provided as Annex 1.

- [7.] All information known to the Complainant regarding how to contact the Respondent is as follows:

Address: Irvine Blvd, Suite 56, Irvine, CA 92602-2400, USA

Telephone: +1 949-613-7100

Emails: supportdesk@captivemedia.com

**III. The Domain Name(s) and Registrar(s)**

(Rules, Paragraphs 3(b)(vi), (vii))

- [8.] This dispute concerns the domain name(s) identified below:

<stabletable.com>, created on 24 November 2007.

- [9.] The registrar(s) with which the domain name(s) is/are registered is/are:

Registrar: DYNADOT, LLC

Address: PO Box 345, San Mateo, CA 94401, USA

Telephone: +1-866-262-3399, +1-650-262-0100

Fax : +1-415-869-2893

Email : info@dynadot.com

**IV. Language of Proceedings**

(Rules, Paragraph 11)

To the best of the Complainant's knowledge, the language of the Registration Agreement is English, a copy of which is provided as Annex 2 to this Complaint.

## **V. Jurisdictional Basis for the Administrative Proceeding**

(Rules, Paragraphs 3(a), 3(b)(xv))

[11.] This dispute is properly within the scope of the Policy and the Administrative Panel has jurisdiction to decide the dispute. The registration agreement, pursuant to which the domain name(s) that is/are the subject of this Complaint is/are registered, incorporates the Policy. A true and correct copy of the domain name dispute policy that applies to the domain name(s) in question is provided as Annex 3 to this Complaint and can be found at [http://www.dynadot.com/icann\\_dispute.html](http://www.dynadot.com/icann_dispute.html).

## **VI. Factual and Legal Grounds**

(Policy, Paragraphs 4(a), (b), (c); Rules, Paragraph 3)

[12.] This Complaint is based on the following grounds:

The Complainant is a Swedish company which wants to enable its customers to focus on taking care of their customers and not have to spend time on fixing wobbly tables. Therefore, they have introduced the STABLETABLE table base - a patented, self stabilizing table base for all kinds of tables in hotels, restaurants, bars and cafés. Thanks to its unique solution, STABLETABLE table base automatically adjusts to any surface, be it cobblestone, tile, wooden floors or carpets, without any need for manual adjustment.

All marketing is conducted under the trademark STABLETABLE, see below which is also registered as a trademark in a number of countries in the world.



### **A. The domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;**

(Policy, Paragraph 4(a)(i); Rules, Paragraphs 3(b)(viii), (b)(ix)(1))

The Complainant is holder of *inter alia* the following registered trademark rights:

- South African Trademark Registration No. 1997/04925, STABLETABLE, filed on 2 April 1997 and renewed 16 November 2006 for goods in class 20;

- European Union (Community Trademark) Registration No. 008755531, STABLETABLE, filed 14/12/2009 and registered 18/08/2010 for goods and services in classes 6, 20 and 45; and
- International trademark registration No. 1049912, STABLETABLE, registered on 01/07/2010.

Designated countries are Australia (registered 17/03/2011), China (registered 17/03/2011), Republic of Korea (registered 19/04/2012), Norway (registered 16/06/2011), Russian Federation (registered 1/03/2013), Singapore (registered 07/02/2013), Turkey (registered 13/09/2012) and USA (registered 14/06/2012).

The same goods and services are covered by the international registration as the Community Trademark on which the international registration is based.

Extracts from the South African OHIM, of the registrations for the relevant marks are submitted as Annex 4-6.

The disputed domain name is *identical* to the Complainant's registered trademarks when the generic top level domain .com is removed.

**B. The Respondent has no rights or legitimate interests in respect of the domain name:**

(Policy, Paragraph 4(a)(ii); Rules, Paragraph 3(b)(ix)(2))

The Respondent has no rights or legitimate interests in the disputed domain name. Furthermore, the Complainant has not given its consent to the use of its registered trademark STABLETABLE.

There is no evidence of the Respondent's 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. Moreover, the Complainant has found nothing to indicate that the Respondent is making a legitimate non-commercial or fair use of the domain name.

Instead, the domain name is directed to a typical pay-per-click site which appears to have no apparent link to the domain name as such.

Finally, the Respondent has to the knowledge of the Complainant not been commonly known by the domain name.

**C. The domain name was registered and is being used in bad faith.**

(Policy, paragraphs 4(a)(iii), 4(b); Rules, paragraph 3(b)(ix)(3))

The domain name has been both registered and used in bad faith by the Respondent. The domain name leads Internet users to an unauthorized site which appears to be a pay-per-click site.

The disputed domain name was registered well after the date of the Complainant's initial South African trademark registration. The Respondent must have acquired the domain name sometime after the middle of the year 2011 since the Complainant's previous contacts with the holder of the domain name from 2010 and in the middle of 2011 was with an entity called Crosspath. The previous holder of the domain name has *inter alia* provided links to other manufacturers and distributors of furniture on the website linked to the domain name. However, the previous holder offered to sell the domain name for 14 000 USD. The current Respondent now appears to switch the use of the website linked to the disputed domain name between a pay-per-click site, see [Annex 7](#) and a login page (the purpose of which is unclear), see [Annex 8](#).

The current Respondent must, or at least should have been aware of the Complainant's rights when acquiring the disputed domain name. Moreover, there has been no use of the domain name which suggests a legitimate interest and good faith registration and use. This suggests the Respondent having registered the domain name in order to prevent the Complainant from reflecting its registered trademark in a corresponding domain name, a conduct which has been established as bad faith by previous panels. Given that the Respondent has no rights and legitimate interests in the disputed domain name and appears to intermittently use the domain name for a pay-per-click site, evidence of both the bad faith registration and use of the domain name in dispute.

The evidence of bad faith registration and use is also confirmed by the fact that the Respondent currently has 6 634 domain names registered which are not in active use, behaviour typical for a cyber squatter. Moreover, if the Respondent would have conducted a trademark search in the Community Trademark database or the International register of trademarks, the trademark rights of the Complainant would have been evident. According to the section 2 of the Uniform

Domain Name Dispute Resolution Policy in force between the Registrar and the Respondent, see Annex 3, the Respondent warrants not to infringe any intellectual property right if a third party. In this regard, the Complainant refers to the cases *Oxygen Media, LLC v. Oana Marinescu*, WIPO Case No. D2000-0582, *Cellular One Group v. Paul Brien*, WIPO Case No. D2000-0028 and *Kate Spade, LLC v. Darmstadter Designs*, WIPO Case No. D2001-1384.

### **VII. Remedies Requested**

(Rules, Paragraph 3(b)(x))

- [13.] In accordance with Paragraph 4(i) of the Policy, for the reasons described in Section VI. above, the Complainant requests the Administrative Panel appointed in this administrative proceeding that <stabletable.com> be transferred to the Complainant.

### **VIII. Administrative Panel**

(Rules, Paragraph 3(b)(iv); Supplemental Rules, Paragraph 8(a))

- [14.] The Complainant elects to have the dispute decided by a single-member Administrative Panel.

### **IX. Mutual Jurisdiction**

(Rules, Paragraph 3(b)(xiii))

- [15.] In accordance with Paragraph 3(b)(xiii) of the Rules, the Complainant will submit, with respect to any challenges that may be made by the Respondent to a decision by the Administrative Panel to transfer or cancel the domain name(s) that is/are the subject of this Complaint, to the jurisdiction of the courts at the location of the principal office of the concerned registrar.

### **X. Other Legal Proceedings**

(Rules, Paragraph 3(b)(xi))

- [16.] To the best of the Complainant's knowledge, there are no other legal proceedings in connection with the disputed domain name.

### **XI. Communications**

(Rules, Paragraphs 2(b), 3(b)(xii); Supplemental Rules, Paragraphs 3, 4, 12)

[17.] A copy of this Complaint, together with the cover sheet as prescribed by the Supplemental Rules, has been sent or transmitted to the Respondent on 4 December 2013 by email to

supportdesk@captivemedia.com

[18.] A copy of this Complaint has been sent or transmitted to the concerned registrar(s) on 4 December 2013 by email to info@dynadot.com

[19.] This Complaint is submitted to the Center in electronic form, including annexes, in the appropriate format.

## **XII. Payment**

(Rules, Paragraph 19; Supplemental Rules Paragraph 10, Annex D)

[20.] As required by the Rules and Supplemental Rules, payment in the amount of USD *USD 1,500* has been made by deduction from the Representative's current account with WIPO.

## **XIII. Certification**

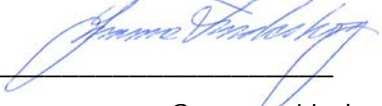
(Rules, Paragraph 3(b)(xiv); Supplemental Rules, Paragraph 14)

[21.] The Complainant agrees that its claims and remedies concerning the registration of the domain name(s), the dispute, or the dispute's resolution shall be solely against the domain name holder and waives all such claims and remedies against (a) the WIPO Arbitration and Mediation Center and Panelists, except in the case of deliberate wrongdoing, (b) the concerned registrar(s), (c) the registry administrator, (d) the Internet Corporation for Assigned Names and Numbers, as well as their directors, officers, employees, and agents.

[22.] The Complainant certifies that the information contained in this Complaint is to the best of the Complainant's knowledge complete and accurate, that this Complaint is not being presented for any improper purpose, such as to harass, and that the assertions in this Complaint are warranted under the Rules and under applicable law, as it now exists or as it may be extended by a good-faith and reasonable argument.



Respectfully submitted,



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*Susanne Lindeskog*

Date: 4 December, 2013

#### **XIV. List of Annexes**

(Rules, Paragraph 3(b)(xv); Supplemental Rules, Paragraphs 4(a), 12(a), Annex E)

1. Printout of the database search conducted on 3 December 2013.
2. A true and correct copy of the Registration (Service) Agreement that applies to the disputed domain name.
3. A true and correct copy of the domain name dispute policy that applies to the disputed domain name.
- 4-6. Extracts from trademark registers and copy of registration certificate from the South African Intellectual Property Office, the OHIM and WIPO.
- 7-8. Printouts of the websites linked to the disputed domain name from November 7 and 3 December, 2013.