

# CHANNEL ISLANDS DOMAIN DISPUTES

C.I.D.D. DOMAIN DISPUTE SERVICE AND ARBITRATION  
A TIMELY SERVICE

## IN THE CASE OF THE DOMAIN NAME SPOTIFY.GG

**Spotify AB**

(Complainant)

- v -

**Charles Grant**

(Respondent)

## DECISION OF THE ADJUDICATOR

1. This Complaint is made in accordance with the Channel Islands Dispute Resolution Service Policy, the Terms and Conditions for Domain Name Registration (GG/JE) v17.02, and the Channel Islands Domain Disputes Rules (C.I.D.D. Rules).

### 2. THE COMPLAINANT

The Complainant is **Spotify AB (“Spotify”) of Regeringsgatan 19, SE-111 53 Stockholm Sweden, Reg no: 556703-7485** and is a music company, founded in 2006 by Swedish entrepreneurs Daniel Ek and Martin Lorentzon, acts as a virtual jukebox that can search and stream about 3.8 million tracks of music on demand using its proprietary file-sharing technology. It is without doubt one of the most famous names in relation to internet stock and making complaint via **Spotify USA Inc**, 4 World Trade Center, 150 Greenwich Street, 62nd Floor, New York, NY 10007 USA via authorised representative Derek Tang. The address of SpotifyAB and Spotify USA Inc being verified via the stotify.com website. The Complainant’s authorised representative is Wilson Sonsini Goodrich & Rosati, (John L. Slafsky; Christine K. Au-Yeung; Susanna P. Lichter 650 Page Mill Road, Palo Alto, CA 94304-1050 USA, John L. Slafsky; Christine K. Au-Yeung; Susanna P. Lichter acting.).

### 3. THE RESPONDENT

The Respondent is listed in the registry records as

Charles Grant  
3595 Veltri Drive  
Soldotna, AK  
99669  
USA

and the Respondent has verified their identity via provision of a passport provided to the Adjudicator.

This was verified by printouts of the WHOIS records for <spotify.gg> provided to the Adjudicator.

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## 4. DISPUTED DOMAIN NAME : SPOTIFY.GG

## 5. THE RESPONSE OF THE RESPONDENT

- 5.1. As the public WHOIS information is withheld and the Complainant had not requested WHOIS information, the Complainant had not taken any steps to verify the addresses at the time of the complaint, and there has been no communication to the addresses that have been acknowledged by the Respondent. (*C.I.D.D. Rule 10.3.4.*).
- 5.2. Following provision of the Complaint, the Respondent's only material response to the complaint was an email stating "*If I deem it is in my best interest not to respond and forfeit my defense, what would happen then? Can I remove any offending material off of the site, revert it to a complying site, and keep the domain?*"
- 5.3. Following provision of the Complaint, the Respondent also removed the offending material from the website.

## 6. GROUNDS OF DISPUTE

The Grounds of dispute are, inter-alia, that

- 6.1. the domain name is an Abusive Registration and it has been used in a manner which has been unfairly detrimental to the Complainant's Rights. *C.I.D.D. Rule 10.1.*
- 6.2. the use of the Domain Name by the Respondent (*C.I.D.D. Rule 2.1.2*) amounts to infringement of the Complainant's rights since:
  - i. The Infringing Domain Name is identical or confusingly similar to a trademark and service mark in which Complainant has rights;
  - ii. Respondent has no rights or legitimate interests in respect to the Infringing Domain Name; and
  - iii. The Infringing Domain Name is registered and is being used in bad faith.

## 7. COMPLAINANT RIGHTS

- 7.1. The Complainant's rights to the name SPOTIFY and the Complainant trademark rights related thereto are extensively set out in the Exhibits and are summarised below.
- 7.2. Complainant is a world leader in developing and distributing software and services for streaming music and other audio-video content. Complainant allows its users to listen to, or watch, the music and video content they love via computers, mobile devices or other hardware.
- 7.3. The Complainant first developed the SPOTIFY brand and business in 2006 to promote music streaming software and services, registered its <spotify.com> domain name on April 23, 2006, began the promotion of its business under the SPOTIFY mark that year, and fully launched its product in 2008.
- 7.4. Since Complainant's full-scale launch in 2008, demand for its services has grown at such a rapid pace that Complainant had ten million active users within the first two years. Complainant's music library includes more than 50 million songs that are available to users in approximately 79 countries. Complainant's community now has approximately 271 million active users and 124 million subscribers. As noted in a May 9, 2015 article from *The New York Times*, "Spotify is by far the most popular service of its kind."

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7.5. In 2013, Complainant began promoting its software and services under the “Spotify Circle” logo and mark which is a unique design that has become iconic of Complainant’s business and the Complainant asserts worldwide rights.

## 7.6. Trademarks

Complaint initially developed the SPOTIFY brand and adopted its distinctive trademark in 2006, including by registering the <spotify.com> domain name on April 23, 2006 and has “Spotify Marks” set out in the Exhibits and representing more than 100 trademark registrations and applications in more than 55 jurisdictions around the world.

7.7. The Adjudicator finds that the complainant’s marks are famous and entitled to special protection.

## 8. RESPONDENT DOMAIN USE

- 8.1. Respondent registered and began use of the Infringing Domain Name well after Complainant developed rights in the Spotify Marks.
- 8.2. The Infringing Domain Name appears to have been first registered on or about December 13, 2018.
- 8.3. Use of the Domain Name is as set out below.

## 9. ADJUDICATORS FINDINGS & REMEDY

- 9.1. The Respondent has not adequately explained the spotify.gg registration and the use thereof and Respondent’s response does not help their case.
- 9.2. The registration amounts to cybersquatting and the domain resolves to a website that clearly attempts to exploit the goodwill associated with the Spotify Marks and the Respondent site fraudulently purports to offer authorised access to Complainant’s services through the website. The Spotify Marks are unlawfully used repeatedly on the Respondent website, including in the claim that “With Spotify.gg, you are able to enjoy a lifetime of Spotify for a fraction of the cost.”
- 9.3. The Respondent has not demonstrated any legitimate non-commercial or commercial use nor fair use of the domain name nor adequately or satisfactorily explained or provided any grounds that provide a defence to the Claimants case.
- 9.4. As the Complainant asserts that “*if any such services exist, such offerings are likely being provided as a result of the Respondent gaining access to Complainant’s services without permission and in violation of Complainant’s use agreement*”, whether any underlying services actually exist or not, it is clear that the website services are being offered to lure Complainant’s users to the website to sell them counterfeit offerings, or to trick them into providing sensitive payment and personal contact information for Respondent’s own use. It is also noted that if a visitor to Respondent’s website clicks on a button or an embedded link on the homepage of the website, the visitor is taken to a page where he or she is asked for personal information. In addition to the site fraudulently collecting &/or selling counterfeit and unauthorized services, the Adjudicator is of the opinion that it is possible that the site is being used to conduct an illegal phishing scam to collect personal information for some other reasons that are not obvious.
- 9.5. The domain name was used to create a site that purported to unlawfully offer Spotify premium service upgrades and which, at a quick glance, appeared to be operated by

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Spotify, although a more detailed examination would raise questions whether this was the case. This more detailed examination would cause a user who initially takes the view that the site was owned or promoted by Spotify, to then take an unfairly detrimental view of Spotify.

- 9.6. As such, there is no doubt that the Domain name has been used to provide a site that is both infringing as asserted by the Complainant, and detrimental as asserted by the Complainant.
- 9.7. The Domain Name is also being used as an instrument of fraud under the doctrine set out in *British Telecommunications plc v One in a Million Ltd [1999] 1 WLR 903*.
- 9.8. **REMEDY:** The registration for the Infringing Domain Name be transferred to Complainant. (*C.I.D.D. Rule 10.3.7.*)

*Nick Lockett*

Nick Lockett

Adjudicator

C.I.D.D.

Monday, 27 April 2020