Decision for dispute CAC-UDRP-101071

Case number	CAC-UDRP-101071
Time of filing	2015-10-07 11:10:15
Domain names	dafaarcade.com

Case administrator

Name	Lada Válková (Case admin)

Complainant

Organization	Emphasis Services Limited

Respondent

Organization	GRITAPAT SETACHANATIP

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

Emphasis Services Limited (the "Complainant") owns registered trade mark rights for or incorporating its DAFA mark, in various countries, including in Hong Kong under trade mark registration number 302048148 for DAFA in Class 41 filed on 3 October 2011 and registered on 11 September 2012. The Complainant also owns various trade mark registrations for DAFABET and the DAFABET logo.

FACTUAL BACKGROUND

The Complainant, through its subsidiaries and licensees, operates various gaming and betting websites. The Complainant operates several of these websites under the DAFA brand, including <www.dafabet.com> and <www.dafa888.com>. The Complainant asserts that its DAFA mark is well-known amongst gaming and betting circles.

Gritapat Setachanatip (the "Respondent") has not filed a response to the Amended Complaint and therefore the facts asserted by the Complainant are uncontested by the Respondent.

The disputed domain name was registered on 26 February 2015.

PARTIES CONTENTIONS

The Complainant contends as follows:

1. The Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
2. The Respondent has no rights or legitimate interests in respect of the domain name; and
3. The domain name has been registered and is being used in bad faith.

RIGHTS

The Panel accepts, based on the evidence filed by the Complainant, that the Complainant owns registered trade mark rights for or incorporating its DAFA mark, in various countries, including in Hong Kong.

The Complainant's trade mark DAFA is entirely incorporated into the disputed domain name. Furthermore, it is the view of the Panel that the addition of the common English word "arcade" to the DAFA mark does not change the overall impression created by the disputed domain name. The Panel notes that the word "arcade" is a generic term that is commonly used in connection with gaming and betting and does not distinguish the disputed domain name. In addition, the Panel accepts that DAFA is the primary and distinctive element of the <www.dafaarcade.com> domain name.

Accordingly, the Panel finds that the Complainant has shown that the Disputed Domain Name is confusingly similar to the Complainant's DAFA trade mark. As a result the Complaint succeeds under this element of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant is only required to make out a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. In the absence of a response from the Respondent, the Panel is entitled to draw certain adverse inferences against the Respondent that it has no rights or legitimate interests in the disputed domain name.

There is no evidence before the Panel to suggest that the Respondent has been authorised or licensed by the Complainant to use its DAFA mark in the disputed domain name. In fact, the Complainant clearly states in the Amended Complaint that it has not authorised the Respondent to use the DAFA name or mark in the disputed domain name.

The Panel notes the following assertions made by the Complainant in its Amended Complaint: (i) DAFA is used in connection with several betting and gaming websites (including <www.dafabet.com> and <www.dafa888.com>); (ii) the mark DAFA has been used for the last 14 years in connection with betting and gaming; (iii) the Complainant uses its DAFA / DAFABET marks in connection with the sponsorship of Sunderland AFC, Everton FC, Celtic FC and Blackburn Rovers FC and also the World Snooker Championship; and (iv) Dafabet was named by eGaming Review as the 21st most influential e-gaming operators in the world. The Panel has no reason to doubt any of these assertions. Accordingly, the Panel is prepared to accept that the DAFA mark is well reputed amongst gaming and betting circles.

Neither is there any evidence to suggest that the Respondent is commonly known by the disputed domain name, or is operating its own bona fide business under the disputed domain name. In this regard the Panel notes that the Complainant's "dafabet" logo is reproduced in its entirety on the website at the disputed domain name. None of this points to legitimate conduct and, in addition to the reasons set out under the third element below, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy and the Complaint also succeeds under this element of the Policy.

BAD FAITH

Bad faith registration

The Panel notes that the disputed domain name was registered by the Respondent on 26 February 2015 which is long after the Complainant filed its first trade mark and long after the Complainant would appear to have developed a considerable reputation in the gaming and betting industry in connection with its DAFA mark. Considering that the Respondent is using the disputed domain name to resolve to a website offering similar gaming and betting services and that the Complainant's "dafabet" logo is reproduced on the website the Panel infers that the Respondent must have known about the gaming and betting services offered by the Complainant under the DAFA and DAFABET marks at the date of registration of the disputed domain name.
Accordingly, the Panel finds that the disputed domain name was registered in bad faith within the meaning of paragraph 4(a)(iii) of the Policy.

Bad faith use

As noted above the Respondent provides similar and it would appear competing services from its website at the disputed domain name to those provided by the Complainant. In addition, in view of the similarities of the Respondent's website to the Complainant's, including its use of the "dafabet" logo and the slogan "POWERED BY DAFABET" the Panel accepts that Internet users arriving at the website to which the disputed domain name resolves are likely to be confused into thinking that it is owned or authorised by the Complainant. The Panel finds that the Respondent is using the disputed domain name in order to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's DAFA service mark, in terms of paragraph 4(b)(iv) of the Policy and this is evidence of bad faith registration and use under the Policy.

As a result, the Panel finds that the disputed domain name has been both registered and is being used in bad faith and the Complaint succeeds under the third element of the Policy.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Complainant owns numerous registered trade mark rights for DAFA, DAFABET and the DAFABET logo mark in various countries. The Complainant's trade mark DAFA is entirely incorporated into the disputed domain name and the addition of the generic "arcade" does nothing to distinguish it.

There is no evidence before the Panel to suggest that the Respondent has any legitimate interests in the disputed domain name. In particular, the Respondent has not been authorized or licensed by the Complainant to use its DAFA mark in the disputed domain name. The Panel is prepared to accept that the DAFA mark is well reputed amongst gaming and betting circles. The Panel notes that that the Complainant's "dafabet" logo is reproduced in its entirety on the website at the disputed domain name. In the Panel's view this does not point to legitimate conduct on the part of the Respondent.

Finally, the Panel infers from the evidence before it that the Respondent must have known about the gaming and betting services offered by the Complainant under the DAFA and DAFABET marks at the date of registration of the disputed domain name. This points to bad faith registration. In addition, the Panel finds that the Respondent is using the disputed domain name in order to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's DAFA service mark. This conclusion is inescapable in light of the Respondent's use on its website of the "dafabet" logo and the slogan "POWERED BY DAFABET".

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **DAFAARCADE.COM**: Transferred

PANELLISTS

Name	**Alistair Payne**

DATE OF PANEL DECISION 2015-11-12

Publish the Decision