Decision for dispute CAC-UDRP-101502

Case number	CAC-UDRP-101502
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Domain names	euro2024.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Union des associations européennes de football (UEFA)

Complainant representative

Organization	Waterfront Solicitors LLP

Respondent

Name	Des Gamble

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

The Complainant has registered since at least 1993 a large number of trade marks in the UK, Europe and around the world that either comprise or incorporate the term “EURO” followed by a number representing the year of the tournament, inter alia the union trademark EURO 2024, No. 011322351 applied for on November 6, 2012 in several classes.

FACTUAL BACKGROUND

The Complainant is the well-known governing body for association football in Europe. It is one of six continental confederations. UEFA consists of 55 national association members.

UEFA represents the national football associations of Europe and runs national team and club competitions including the UEFA European Football Championship, UEFA Champions League, UEFA Europa League, and UEFA Super Cup, and controls the prize money, regulations, and media rights to those competitions.

The UEFA European Football Championship was founded in 1960 and is the primary association football competition contested by the senior men's national teams of the members of UEFA. It has been held every four years thereafter and starting with the 1984 tournament specific championships have been referred to as the “UEFA EURO [year of championship]”

or simply the “EURO [year of championship]”.

In the case of the 1984 tournament the form this name took was “EURO 84”, and in subsequent years the names used have been “EURO 88”, “EURO 92”, “EURO 96”, “EURO 2000”, “EURO 2004”, “EURO 2008”, “EURO 2012”, “EURO 2016”, and for the future “EURO 2020” and “EURO 2024”. In each case the name was used to refer to the tournament many years prior to the date of the tournament itself. For example, the name “EURO 2000” was in use since at least 1997 with the draw for the tournament taking place in January 1998, in Belgium.

The Complainant’s EURO Football tournaments are world famous and are particularly famous in Europe. Submitted evidence shows accumulated TV audience figures for the EURO 2016 Final Tournament on a global basis of 9,977,678,655.

The “EUROs” are the second most watched football tournament in the world after the FIFA World Cup. The EURO 2016 final match was watched by a global audience of around 173.5 million alone.

The Complainant has registered since at least 1993 a large number of trade marks in the UK, Europe and around the world that either comprise or incorporate the term “EURO” followed by a number representing the year of the tournament, inter alia the union trademark EURO2024, No. 011322351 applied for on November 6, 2012 in several classes.

In addition to the registered rights identified above and by reason of the Complainant’s very extensive use of the terms “EURO 84”, “EURO 88”, “EURO 92”, “EURO 96”, “EURO 2000”, “EURO 2004”, “EURO 2008”, “EURO 2012”, “EURO 2016” and also by reason of its use of the terms “EURO 2020” and “EURO 2024” the Complainant claims to has developed very substantial goodwill in each of those terms and more generally any term that takes the form “EURO 20XX” where “20XX” represents a year in which the tournament takes place.

The disputed domain name has been registered in 1999. The parties dispute whether the Respondent was from the beginning, as the Respondent claims, and continuously proprietor of the disputed domain name or not, as the Complainant claims.

In the years between 2007 and 2017, the disputed domain name was used for a website that appears to have been generated by a domain name “pay-per-click” service. The form of the display of those webpages related inter alia to football, later on also to other sports blogs, and lately a twitter feed under the twitter name “EURO2024” was added on the website whereas the related tweets were not completely, but to a certain extent football related.

The Respondent never disputed that he was aware of the term EURO 2024 being the name of the Complainant´s tournament in the year 2024.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant, inter alia, argues that the disputed domain name is confusingly similar to its well-known and distinctive trademarks.

The Complainant is required to make out a prima facie case that the Respondent lacks rights or legitimate interests. Once such prima facie case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, in particular that the Respondent is commonly known under the domain name or is marking an legitimate non-commercial use of the disputed domain name.

The Complainant is, regardless of the date of the Respondent on which he became proprietor or proprietor again of the disputed domain name, of the opinion that the registration was in bad faith since the Respondent was aware of the term EURO2024 being associated with the Complainant's tournament.

Further, the Respondent's use of the disputed domain name in connection with a website for a purported "sports modelling" business, constitutes an intentional attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's above identified marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

Further, if (as the Respondent alleges) the Respondent controlled the Domain Name prior to the 2011 re-registration of the Domain Name in his name, the use of the Domain Name to display pay-per-click pages is further bad faith use that falls within the scope of paragraph 4(b)(iv) of the Policy.

Thus, the Complainant contends that the Respondent has registered the disputed domain name and is using it in bad faith.

RESPONDENT:

The Respondent, inter alia, claims to have registered the disputed domain name euro2024.com in 1999 and to always renewed it since then.

It was purchased with the intention to use visual basics and other techniques to perfect Respondent´s modelling of snooker matches. The Respondent claims that at this time he was also working with various statistical techniques to try and understand how random patterns repeat themselves. Pascal's Triangle was one such technique and he was interested in the general link between numbers and patterns formed where there are two possible outcomes – for a sport like snooker the Respondent claims to have liked the fact that 2024 was both a Tetrahedral number with a 22 ball base (game of snooker starts with 22 balls on the table) and was also included in Pascal's Triangle and in 1999 decided to purchase the domain Euro2024.com which combined the number with the euro sports field that he was working in at the time.

Furthermore, 'Euro' was, at that time, a popular term (the currency had just launched) and he liked the fact to combine the popular household term 'euro' with a number that was mathematically linked with the game of snooker.

The Respondent is of the view that in 1999 when he purchased the domain name there was no indication that the Complainant was going to host information on the domain euro2024.com such as it did not happen on euro1992, euro1996.com or even at that time the imminent euro2000.com.

Further, the Complainant had have enough time to sort out purchases of any later domain names.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) 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.

Both parties have filed additional statements commenting on arguments of the other side. The Panel has in its own discretion, allowed and considered both further statements.

In March 2017, communication between the parties could not resolve the matter. After commencement of the present proceedings and a few days before the due date for the Panellist´s decision, the Complainant requested an order to transfer the disputed domain name without a decision on the merits being rendered in view of a respective agreement, for which an e-mail excerpt was presented, between the parties to transfer the disputed domain name without a decision on the merits being rendered.

The Panel found it more appropriate to ask the Respondent to confirm his agreement to transfer the disputed domain name without a decision on the merits being rendered directly over the communication platform of the Czech Arbitration Court until a certain date. The Respondent, however, did not file such statement. Accordingly, the Panel found it appropriate and necessary to render the decision as follows.

PRINCIPAL REASONS FOR THE DECISION

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) The Respondent has no rights or legitimate interests with respect to the disputed domain name; and

(iii) The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for “EURO 2024”.

The disputed domain name is identical to the EURO 2024 trademark of the Complainant. The Panel therefore considers the disputed domain name to be confusingly similar to the trademark EURO 2024 in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name “EURO 2024” or that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.

Even assuming in his favor the subjective truth of the Respondent´s explanations why he choose this domain name, the given reason would not be sufficient in panel´s view to legitimize the registration and use of this disputed domain name being one of the next names of one of the most famous socker events in the world.

The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The Panel is of the view that the term EURO in combination with a two digit or 4 digit number is well-known for the socker Tournament in Europe every 4 years organized by the Complainant, and was well-known also before the disputed domain name was registered. Whether or not the Respondent was aware of all legal implications of his registration of the disputed domain name, is not relevant here. In view of the Panel, he must have been certainly aware of this fact, and did not reject the related assumption of the Complainant, and nevertheless applied for the disputed domain name. In the following , by means of the pay per click service, but also by feeding socker information on the related website, under a name being associated with the Complainants tournament, he exploited the association of the internet customers being well aware of the meaning of EURO 2024 attributed to the Complainant.

In the present proceedings, it is not of disadvantage for the present Complainant or other Complainants in comparable situations that they might have not been after every conflicting domain name or did not apply for every possible future designation as a domain name or a trademark, whereas it is necessary that they have a confusingly similar trademark and the circumstances of the case suggest that the Respondent knew about the attribution of the disputed domain name to the Complainant.

The Complainant has also not authorized the Respondent to make use of a designation which is highly similar to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular domain name without the Complainant’s authorization.

The circumstances of this case, in particular the initial pay per click service as well as the socker information furthermore indicate that the Respondent registered and uses the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **EURO2024.COM**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2017-05-19

Publish the Decision