Decision for dispute CAC-UDRP-101053

Case number	CAC-UDRP-101053
Time of filing	2017-06-28 12:58:41
Domain names	dafababy.com, dafavip2.com, dafavip6.com, dafavip8.com, dafazhenren.com, cndafa1.com, cndafa2.com, cndafa3.com, cndafa4.com, cndafa5.com, cndafa6.com, cndafa7.com, cndafa8.com, cndafa9.com, dafavip1.com, dafavip3.com, dafayule28.com, dafa888.mobi

Case administrator

Name	Aneta Jelenová (Case admin)

Complainant

Organization	Emphasis Services Limited

Respondent

Name	Fei Zhang

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings, either pending or decided, relating to the disputed domain names.

IDENTIFICATION OF RIGHTS

The Complainant owns the following trademarks, all predating the date of registration of the disputed domain names:

- DAFA (word mark), Malaysia trademark registration No. 2011019075, of October 28, 2011, for, among others, casino, gaming, and gambling services in class 41;
- DAFA (word mark), Hong Kong trademark registration No. 302048148, filed on October 3, 2011 and granted on September 11, 2012, for, among others, casino, gaming, and gambling services in class 41;
- D DAFABET (device mark), EUTM registration No. 12067138, filed on August 14, 2013, and granted on February 17, 2014, for services related to gambling, gaming, and casino facilities, in classes 38 and 41;
- D DAFABET (device mark), Philippines registration No. 42014505034, of October 24, 2014 for services related to gambling, gaming, and casino facilities, in classes 38 and 41.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant, through its subsidiaries and licensees, operates websites offering online gaming and betting with licenses issued in the Philippines, Curacao, UK and the Isle of Man. The Complainant owns and operates the following gaming sites under the trademark DAFA: <dafabet.com> and <dafa888.com>.

For 14 years, the Complainant has used the trademark DAFA in various combinations to designate its online gaming and betting offerings.

DAFABET is a well-known trademark through its various sponsorships for commercial clubs: a) Official Main Club Sponsor of Sunderland FC; b) Official Main Club Sponsor of Celtic FC; c) Official Main Club Sponsor of Burnley FC; d) Official International Betting Partner of Everton FC; e) Official Main Sponsor of Blackburn Rovers FC; f) Official Main Team Sponsor of Fnatic eSports; g) Official Betting Partner of Wales.

DAFABET was also named by eGaming Review as 23rd among the 40 most influential e-gaming operators in the world.

The Respondent is not only abusively reflecting the Complainant's trademarks in the disputed domain names, but is also using these domain names in connection with a website that appears almost exactly the same as that of the Complainant. The Respondent has virtually cloned the Complainant's website by illegally using the Complainant’s graphics, images, designs, contents and logos. This is a blatant attempt to deceive the public in thinking that the Respondent is associated, and transact business, with the Complainant.

The Complainant sent a cease and desist letter to the Respondent, but received no reply, while the Respondent's use of the disputed domain names and associated websites persisted.

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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.

PRINCIPAL REASONS FOR THE DECISION

1. The disputed domain names are confusingly similar to a trademark in which the Complainant has rights (Para.4(a)(i) of the Policy).

The Complainant has proved to be the owner of several DAFA and DAFABET trademarks in various jurisdictions. All the disputed domain names consist of the same term DAFA followed by: (i) terms, such as "baby", "vip"; "zhenren", "yule" (ii) numbers, or preceded by the two letters "cn".
All these domain names are confusingly similar to the Complainant's trademark DAFA, since they fully incorporate it, and since the term DAFA is fully distinguishable with respect to the additional components of the domain names, either because it is placed at the beginning of the domain names, which is where consumers mainly focus their attention, or because the additional elements of the domain names are deprived of distinctive character.

Therefore, the Panel takes the view that the disputed domain names are confusingly similar to the Complainant's trademark DAFA.

2) The Respondent lacks rights or legitimate interests in the disputed domain names (Para. 4(a)(ii) of the Policy).

According to the Complainant, the Respondent does not have any legal right to use the trademark DAFA as part of its domain names, is not connected with the Complainant, is not one of its licensees, and is not authorised to use the Complainant's intellectual property rights.
Moreover, the disputed domain names lead to a website illegally reproducing the Complainant's trademarks, graphics, images, designs, contents and logos.

All these circumstances are sufficient to establish a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain names.

The Respondent failed to file a Response in these UDRP proceedings, in which it could have provided arguments in support of its rights or legitimate interests.

Therefore, the Panel takes the view that the Respondent lacks rights or legitimate interests in the disputed domain names.

3) The disputed domain names have been registered and are being used in bad faith (Paragraph 4(a)(iii)of the Policy).

From the Complainant's allegations and evidence filed with the Complaint, there is no doubt that the Respondent was well aware of the Complainant's trademarks at the time of the registration of the disputed domain names, for the following reasons.
First, all domain names include the term DAFA, which is a coined term, identical to the Complainant's trademark. Furthermore, among the first group of domain names, i.e., those registered on August 11, 2016, is the domain name <dafa888.mobi>, which is identical to the domain name <dafa888.com> that the Complainant uses for one of its main websites. In addition, the Complainant mentions in its Complaint to own licenses to operate in several countries, including in the Philippines, which is where the Respondent is located. Lastly, the Respondent is using the disputed domain names to lead to a website illegally reproducing the Complainant's graphics, images, designs, contents and logos.

Therefore it is clear that at the time of the registration of the disputed domain names, the Respondent had in mind the Complainant's trademarks and activity, and that the main purpose for the registration of the disputed domain names was to disrupt the Complainant's business and to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Responent's web site.

With respect to use in bad faith, as mentioned above, the Respondent is using the disputed domain names to lead to a website reproducing the Client's trademarks, graphic, logo, images, colors and design. The Respondent's website is so similar to the Complainant's official website that the Internet users would easily be misled. This activity is likely to create huge damages to the Complainant, as its activity is mainly focused on on-line gaming and betting.
The Respondent use of the disputed domain names does certainly not amount to use in good faith. Through the use of the disputed domain names, the Respondent is trying to disrupt the Complainant's business and to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of the Responent's web site.

For all reasons mentioned above, the Panel concludes that the Respondent’s registration and use of the disputed domain names in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **DAFABABY.COM**: Transferred
2. **DAFAVIP2.COM**: Transferred

3. **DAFAVIP6.COM**: Transferred
4. **DAFAVIP8.COM**: Transferred
5. **DAFAZHENREN.COM**: Transferred
6. **CNDAFA1.COM**: Transferred
7. **CNDAFA2.COM**: Transferred
8. **CNDAFA3.COM**: Transferred
9. **CNDAFA4.COM**: Transferred
10. **CNDAFA5.COM**: Transferred
11. **CNDAFA6.COM**: Transferred
12. **CNDAFA7.COM**: Transferred
13. **CNDAFA8.COM**: Transferred
14. **CNDAFA9.COM**: Transferred
15. **DAFAVIP1.COM**: Transferred
16. **DAFAVIP3.COM**: Transferred
17. **DAFAYULE28.COM**: Transferred
18. **DAFA888.MOBI**: Transferred

PANELLISTS

Name	**Angelica Lodigiani**

DATE OF PANEL DECISION 2017-08-04

Publish the Decision