# Decision for dispute CAC-UDRP-102391

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| Case number | CAC-UDRP-102391 |
| Time of filing | 2019-04-05 10:00:54 |
| Domain names | dafabetcity.com |

## Case administrator

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| Name | Šárka Glasslová (Case admin) |

## Complainant

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| Organization | Emphasis Services Limited |

## Respondent

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| Name | Rob Monster |

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner the European trademark n° 012067088 for “DAFABET” since February 17, 2014. Additionally, the Complainant owns a variety of registered trademarks incorporating the term “D DAFABET” across Australia, Israel and EU, with the earliest record from February 17, 2014.

FACTUAL BACKGROUND

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

Complainant, through its subsidiaries and licensees, operates websites offering online gaming and betting with licenses issued in the Philippines, Curacao, UK, Ireland and Kenya.

The Complainant uses the name DAFABET to operate its business, which consists of several gaming sites across the internet. It operates under the name “DAFABET”, which is also its trademark. Its domain names, such as <dafabet.com> <dafabet.co.ke> also incorporate the DAFABET trademark.

The Complainant has registered its rights over the trademark “DAFABET” in the EU, as well as various jurisdictions, including Australia and Israel, with the trademark “D DAFABET”.

“DAFABET” is also known through its various sponsorships of various football clubs.

The disputed domain name was registered on February 28, 2017.

PARTIES CONTENTIONS

Complainant:

The disputed domain name is identical and confusingly similar to the trademark owned by the Complainant as it uses "DAFABET" as a prefix with the generic term "city".

The Complainant is the owner of intellectual property rights pertaining to “DAFABET” due to its registration in various jurisdiction and its usage and notoriety. Complainant denies any direct connection with Respondent that Respondent’s use of the Complainant’s intellectual property in the disputed domain name and website are unauthorized and illegal.

On the other hand, there is no evidence that the Respondent is commonly known by the disputed domain name. Respondent will not be able to show prior usage, registration or any right to use the mark “DAFABET” for its website.
The Respondent’s registration has been made in bad faith as it will not be able to establish a reason as to why it uses the trademark "DAFABET" in the disputed domain name. The only conceivable reason for using the trademark "DAFABET" in the disputed domain name is to sell the disputed domain name to the Complainant.

Further, the use of a privacy service to conceal the identity of the registrant is obviously resorted to avoid the discovery of the fact that the respondent has repeatedly taken advantage of third party trademarks by registering domain names identical or confusingly similar and then offering it for sale. The Respondent is well aware that the Complainant is the owner of the mark “DAFABET” because of, registrations in various jurisdictions; and goodwill and notoriety of the trademarks.

RESPONDENT:

No administratively compliant Response was filed.

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 the Decision.

PRINCIPAL REASONS FOR THE DECISION

As contained under paragraph 4(a) of the Policy, for the Complaint to succeed in relation to the disputed domain name, the Complainant must succeed in showing the following:

(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 in respect of the disputed domain name; and
(iii) The disputed domain name has been registered and is being used in bad faith.
In the present case, the Respondent did not produce a Response, therefore, the Panel for the purposes of this Decision may treat as uncontested the assertions submitted by the Complainant. The Panel will now review each of these elements.

A. Identical or Confusingly Similar

The Complainant, as evidenced on record, has established its rights in the trademark “DAFABET” since at least 2014.

After establishing the rights in the trademark, we now need to examine the possible confusing similarity between the disputed domain name and the Complainant’s trademarks. The disputed domain name incorporates the entirety of the trademark, namely “DAFABET”, followed by the word “CITY”. The term “CITY” is a generic term, and based on common sense and without any proof or assentation to the contrary, this leads the Panel to conclude that the term “CITY” adds no distinctiveness to the disputed domain name and is perhaps mainly used to evoke a connection with the trademark of the Complainant. Being that the disputed domain name incorporates the Complainant’s Trademark in its entirety, with the addition of a generic term, the Panel finds that the disputed domain name is confusingly similar with the Complainant’s Trademark, as per the summary of consensus panel views set forth under paragraph 1.8 of WIPO Overview 3.0.

The Panel therefore finds that the Complaint has satisfied the first element set under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent is not commonly known as the disputed domain name. Similarly, the Complainant asserts there is no existing business relationship between the Complainant and the Respondent and that it has not authorized the Respondent to carry out any activity on behalf of the Complainant. The Complainant also asserts that the Respondent will not be able to show prior usage, registration or any right to use the mark “DAFABET” for the disputed domain name. In the view of the Panel, these assertions are enough to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name (see 2.1 of WIPO 3.0 Overview).

The Respondent in failing to respond to the Complainant’s contentions has not rebutted the prima facie case, as above-mentioned. Additionally, there is no other available evidence on record that would otherwise allow the Panel to find any rights or legitimate interests for the Respondent in the disputed domain name.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and therefore the Complainant has fulfilled the second requirement set under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds, as per the evidence on record, that the Respondent was probably aware of the Complainant and targeted the Complainant’s trademark when registering the disputed domain name. This conclusion is reinforced by the fact that the Respondent seems to evoke a connection to the Complainant’s trademark through the inclusion of the trademark in its entirety plus the addition of a generic term. This fact in connection with the lack of response from the Respondent to a cease and desist letter, as well as the lack of response in these proceedings leave the Panel no other option than to conclude that that the most likely intention of the Respondent in relation to the disputed domain name was to intentionally attempted to attract, for commercial gain, Internet users to its website/Domain Name, by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website and/or Domain Name (see 3.1 of WIPO 3.0 Overview).

D. Decision

For the preceding reasons and in conformity with the provisions contained under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed domain name to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **DAFABETCITY.COM**: Transferred

## PANELLISTS

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| Name | **Rodolfo Carlos Rivas Rea** |

DATE OF PANEL DECISION 2019-05-08

Publish the Decision