Decision for dispute CAC-UDRP-102409

Case number	CAC-UDRP-102409
Time of filing	2019-04-08 12:46:18
Domain names	dafavip777.com, dafavip666.com

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Emphasis Services Limited

Respondent

Name	HAO ZHENGJIAO

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant states that "through its subsidiaries, [Complainant] operates websites offering online gaming and betting with licenses issued in the Philippines, Curacao, UK, Ireland and Kenya. The Complainant owns and operates several gaming sites under the brand "dafa" and "dafabet" (i.e. dafabet.com, dafabet.co.ke and dafa888.com).

The Complainant has, for 16 years, used the name "Dafa" and "Dafabet" in varying combinations to designate its online gaming and betting offerings."

The Complainant further states and provides evidence to support, that it is the owner of multiple trademark registrations, all predating the date of registration of the disputed domain names:

• DAFA, Hong Kong trademark registration No. 302048148, filed on October 3, 2011 and registered on September 11, 2012, for, among others, casino, gaming, and gambling services in class 41;
• DAFA, Malaysia trademark registration No. 2011019075, of October 28, 2011, for, among others, casino, gaming, and gambling services in class 41;
• D DAFABET, EUTM registration No. 012067138, filed on August 14, 2013, and registered on February 17, 2014, for services related to gambling, gaming, and casino facilities, in classes 38 and 41;
• D DAFABET, 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 claims that "through its subsidiaries, [Complainant] operates websites offering online gaming and betting

with licenses issued in the Philippines, Curacao, UK, Ireland and Kenya. The Complainant owns and operates several gaming sites under the brand "dafa" and "dafabet" (i.e. dafabet.com, dafabet.co.ke and dafa888.com).

The Complainant states it has been using for 16 years name "Dafa" and "Dafabet" in varying combinations to designate its online gaming and betting offerings."

The Complainant contends it has registered its rights over the brand “Dafa” in Malaysia, Philippines and Hong Kong and has likewise registered its rights over the graphical representation of the brand “Dafabet” in various jurisdictions, including an International Trademark, the European Union, the United Kingdom, Australia and Israel.

According to the Complainant “Dafabet” is a well-known mark through its various sponsorships of commercial clubs: a) Official Main Team Sponsor of Fulham FC; b) Official Main Club Sponsor of Celtic FC; c) Official Betting Partner of Leicester City FC; d) Official Betting Partner Wales; e) Official Title Sponsor Masters-Snooker;

Furthermore, Dafabet has also sponsored: a) Fnatic eGaming Team; b) Aston Villa F.C.; c) West Bromwich Albion F.C.; d) Everton F.C.; e) Burnley F.C.; f) Blackburn Rovers F.C.; g) Sunderland F.C.

Dafabet was also named by eGaming Review as 23rd most influential e-gaming operator in the world.

PARTIES’ CONTENTIONS:

COMPLAINANT:

• Domain names are confusingly similar to the protected mark

According to the Complainant, the Respondent’s registered domain names are confusingly similar to the “Dafa” and "Dafabet" trademarks owned by the Complainant. Essentially, the Respondent has appropriated the trademarks Dafa and Dafabet by adding letters, words and numbers at the end of the trademarks to lead consumers to believe that it is affiliated with the Complainant.

• Respondent does not have any rights or legitimate interest in the domain names

The Complainant states that the Respondent does not have a legal right to use the name “Dafa” or "Dafabet" as part of its domain name. Respondent is not in any way connected with the Complainant nor is it authorized to use its intellectual property rights for its operations as a licensee or in any capacity. In addition, aside from using the word “dafa” and "dafabet" in its domain, the Respondent has virtually cloned the Complainant's website by illegally using the Complainant's graphics, images, designs, content and logos which are indicative of Respondent’s intention to deceive users to think that their websites are affiliated with the Complainant.

• The domain names have been registered and are being used in bad faith

According to the Complainant, the Respondent’s illegal use of the Complainant’s intellectual property on its website is indicative of its intentions in using the Complainant’s marks “Dafa” and "Dafabet" in its domain names. The Respondent is making it appear that its websites are affiliated with the Complainant by not only using the “Dafa” and "Dafabet" marks in its domain, but also making the website appear almost exactly the same as that of Complainant.

The Complainant contends it is evident from screenshots of Respondent’s websites that Respondent is not only using the marks of the Complainant in its domain name, but it has virtually cloned the website by illegally using the Complainant’s graphics, images, designs, content and logos. This is a blatant to attempt to deceive the public in thinking that they are associated with the Complainant and transact business with them.

In addition, the Complainant claims that the Respondent is well aware that the Complainant is the owner of the mark “Dafa”

and "Dafabet" because of: i) Registrations in various jurisdictions; ii) Goodwill and notoriety of the trademarks; and iii) Respondent's illegal usage of Complainant's logos, content, images and designs in its website.

Moreover, the Complainant states that "Dafa" and "Dafabet" are not only registered marks in various jurisdictions, it is likewise well known marks due to sponsorship with the English Premier League and the World Snooker Championship. Further, any claim of Respondent to lack of knowledge over Complainant's ownership over the name "Dafa" and "Dafabet" is negated by the fact that it has used the Complainant's marks on its website.

Finally, the Complainant sent a cease and desist letter to the Respondent on 4 April 2019, but received no reply, while the Respondent has persisted in their illegal activities.

PARTIES CONTENTIONS

RESPONDENT:

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

The UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY of the Internet Corporation for Assigned Names and Numbers (ICANN) (the "Policy") provides that Complainant must prove each of the following to obtain transfer or cancellation of the disputed domain names:
1. that Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
2. that 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.

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 provided evidence and 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" and "dafabet" followed by: (i) terms, such as "vip" and (ii) numbers. All these domain names are confusingly similar to the Complainant's trademarks "Dafa" and "Dafabet" since they fully incorporate them despite the addition of the terms "vip" and the addition of numbers "777", "333" and "3" which the Panel finds does not eliminate any confusing similarity. This is especially true where, as here, the trademark is "the

dominant portion of the domain name," LEGO Juris A/S v. Domain Tech Enterprises, WIPO Case No. D2011-2286, or where the trademark in the domain name represents "the most prominent part of the disputed domain name[] which will attract consumers' attention." Kabushiki Kaisha Toshiba dba Toshiba Corporation v. WUFACAI, WIPO Case No. D2006-0768., and since the terms "dafa" and "dafabet" are fully distinguishable with respect to the additional components of the domain names, either because they are 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 a distinctive character.

Therefore, the Panel finds that the disputed domain names are confusingly similar to the Complainant's trademarks "Dafa" and "Dafabet".

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

Under the Policy a 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 burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP (see WIPO Overview 2.0, paragraph 2.1).

According to the Complainant, the Respondent does not have a legal right to use the name "Dafa" or "Dafabet" as part of its domain name. Respondent is not in any way connected with the Complainant nor is it authorized to use its intellectual property rights for its operations as a licensee or in any capacity.

In a present case, the Respondent failed to file a Response in which it could have provided evidence in support of its rights or legitimate interests. Therefore, 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 Panel thus 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).

The Complainant states and provides evidence to support, that the Respondent is making it appear that its websites are affiliated with the Complainant by not only using the "Dafa" and "Dafabet" trademark in its domain, but also making the website appear almost exactly the same as that of Complainant. The Respondent has virtually cloned the website by illegally using the Complainant's graphics, images, designs, content and logos. The Panel finds that such actions constitute bad faith pursuant to paragraph 4(b)(iv) of the Policy, which provides: "by using the domain name, respondent has intentionally attempted to attract, for commercial gain, Internet users to respondent's web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of respondent's web site or location or of a product or service on respondent's web site or location."

For all reasons stated above, the Panel is satisfied that the Complainant has proven the third element of the Policy that is 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. **DAFAVIP777.COM**: Transferred
2. **DAFABETVIP3.NET**: Transferred
3. **DAFAVIP666.COM**: Transferred

PANELLISTS

Name	**Mgr. Barbora Donathova, LL.M.**

DATE OF PANEL DECISION 2019-05-21

Publish the Decision