Decision for dispute CAC-UDRP-102673

Case number	CAC-UDRP-102673
Time of filing	2019-09-13 08:53:33
Domain names	starstablehack.club

Case administrator

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

Complainant

Organization	Star Stable Entertainment AB

Complainant representative

Organization	SILKA Law AB

Respondent

Name	Cezary Misiag

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of trademark registrations across various jurisdictions, including Poland, where the Respondent is located, inter alia European registrations no. 008696775 Star Stable, registered on April 5, 2010, and no. 013204128 Star Stable, registered on January 13, 2015. The trademarks are registered for a variety of goods and services, including "Electronic game programs; Downloadable game programs; Computer programs for pre-recorded games; Downloadable game software; (..) electronic game services and competitions provided by means of the internet; (..)" in classes 9 and 42.

FACTUAL BACKGROUND

The Complainant was founded in 2011 and is a privately held company located in Sweden operating an online horse adventure game under www.starstable.com.

The game has active users in 180 countries and 11 languages. The game was launched in late 2012 and was available only in Swedish. As the company developed and improved the game, the Complainant entered further markets, such as Northern Europe, the US and the rest of the world. Today the Complainant has over 6 million registered users. The Complainant has

also a significant presence on various social media platforms, such as Facebook, Youtube, Instagram, Google+ and Twitter with a high number of followers and subscribers.

The Complainant is also the owner of registered domain names which include the STAR STABLE marks, such as <starstable.com> (created in 2007) and <starstable.org> (created in 2012). The Complainant is using these domain names to connect to websites through which it informs potential customers about its STAR STABLE mark, games and merchandise.

The disputed domain name was registered on March 13, 2019, and is used in connection with an active website offering a "hacking" tool for the Complainant's software.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT

The Complainant contends that the disputed domain name is confusingly similar to the STAR STABLE trademarks and that the addition of the term “hack” does not distinguish the domain name from these marks.

Furthermore, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. In this regard, the Complainant states that the Respondent has no relationship with the Complainant's business and is not authorized or licensed to use the Trademark. In addition, the Complainant contends that it does not have control over the website and cannot guarantee the safety of their players, since apart from hacking if unauthorized, websites or software of that kind are often installing virus programs on the players' computers.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. In this regard, the Complainant contends that the Trademark is widely known and highly distinctive and that the Respondent was fully aware of the Complainant when registering the disputed domain name. The Complainant also states that the Respondent has provided no evidence of any actual or contemplated good faith use by it of the disputed domain name and is using the disputed domain name to attract, for commercial gain Internet users to its website or other on-line location by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Complainant was already involved in numerous other proceedings, in which it dealt with registered domain names containing its STAR STABLE marks and websites offering a "hacking" tool for the online game. See Star Stable Entertainment AB v. WhoisGuard Protected, WhoisGuard Inc. / Federico James WIPO Case No. D2016-1427; Star Stable Entertainment AB v. WhoisGuard Protected / WhoisGuard, Inc. / Victor Arreaga WIPO Case No. D2015-2312; Star Stable Entertainment AB v. Rafael Velez / Domains By Proxy, LLC, Registration Private, WIPO Case No. D2015-2314; Star Stable Entertainment AB v. Victor Arreaga / WhoisGuard Protected, WhoisGuard, Inc., WIPO Case No. D2015-2315; Star Stable Entertainment AB v. WhoisGuard Protected, WhoisGuard, Inc. / Davidson Gilbert WIPO Case No. D2018-0259; Star Stable Entertainment AB v. Domain Administrator, See PrivacyGuardian.org / Lili Cai WIPO Case No. D2018-0260.

RESPONDENT

No administratively compliant Response has been 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 the UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

Under paragraph 4(a) of the Policy, the Complainant must prove that each of the following three elements is present:

(i) the disputed domain name is identical or confusingly similar to the Complainant's trademark; 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.

1. The Panel accepts that the disputed domain name is confusingly similar to the STAR STABLE marks as it fully incorporates such trademarks despite the addition of the descriptive term “hack”, which clearly refers to a "hacking tool" generated for the game offered by the Respondent. See Star Stable Entertainment AB v. WhoisGuard Protected / WhoisGuard, Inc. / Victor Arreaga, WIPO Case No. D2015-2312 (<starstablehack.club> et al.).

Furthermore, the addition of the generic Top-Level Domain (gTLD) “.club”, does not add any distinctiveness to the disputed domain name. See Sanofi v. Agim Allaraj, WIPO Case No. D2019-1848 (<sanofi-aventis.club>).

2. The Complainant has substantiated that the Respondent has no rights or legitimate interests in the disputed domain name. The Panel finds that the Complainant has fulfilled its obligations under paragraph 4(a)(ii) of the Policy. The Respondent did not deny these assertions in any way and therefore failed to prove any rights or legitimate interests in the disputed domain name.

Based on the evidence, the Panel also finds that the Respondent lacks rights or legitimate interests.

The Respondent's website is using the Complainant's logo and even refers to the Complainant's core website available at www.starstable.com. Further, the Respondent is using the disputed domain name to redirect to a website titled: “Star Stable Hack Star Coin Generator”. Star Stable players are invited to use the Respondent’s software to hack and circumvent the game by using a hack tool. By submitting their personal Star Stable login information on the website, players can, for instance, obtain unlimited Star Coins, that would otherwise have to be bought through Complainant’s official game. Such use is not bona fide under the Policy. See Star Stable Entertainment AB v. Domain Administrator, See PrivacyGuardian.org / Lili Cai, WIPO Case No. D2018-0260 (<starstablehacksz.com>): "The site also encouraged users to provide personal information to the Respondent, akin to a phishing scheme. Such a scheme cannot be considered a bona fide offering of goods or services or a legitimate noncommercial or fair use of the Disputed Domain Name. See CMA CGM v. Diana Smith, WIPO Case No. D2015-1774."

3.1 The Panel is satisfied that the Respondent registered the disputed domain name with full knowledge of the Complainant and its rights in the STAR STABLE Marks as such trademark is highly distinctive and as the Respondent offers services related to the Complainant's software.

3.2 As to bad faith use, the Respondent's scheme to create a hacking website that encouraged users to provide personal information to the Respondent evidences a clear intent to disrupt the Complainant's business, deceive its users, and trade off the Complainant's goodwill by creating an unauthorized association between the Respondent and the Complainant's STAR STABLE Mark. Herefore, the Respondent was, in all likelihood, trying to divert traffic intended for the Complainant's website to its own for commercial gain as set out under paragraph 4(b)(iv) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **STARSTABLEHACK.CLUB**: Transferred

PANELLISTS

Name	**Peter Müller**

DATE OF PANEL DECISION 2019-10-23

Publish the Decision