Decision for dispute CAC-UDRP-102721

Case number	CAC-UDRP-102721
Time of filing	2019-10-16 11:02:31
Domain names	mystarstablehack.top

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Star Stable Entertainment AB

Complainant representative

Organization	SILKA Law AB

Respondent

Name	Sarunas Kujalis

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the Disputed Domain Name.

IDENTIFICATION OF RIGHTS

Complainant states, and provides evidence to support, that it is the owner of certain trademark registrations in the United States and the European Union that consist of or contain the mark STAR STABLE (the “STAR STABLE Trademark”), including U.S. Reg. No. 947,686 for the mark STAR STABLE (registered July 6, 2010) for use in connection with “Interactive electronic game software and program.”

FACTUAL BACKGROUND

Complainant states that it “was founded in 2011 and is a privately held company located in Sweden operating the online horse game starstable.com. The game has players from all over the world with active users in 180 countries and 11 languages. When the game debuted in late 2012, it was in Swedish only. As the company developed and improved the game the market grew to Northern Europe, the US and the rest of the world. Today the Complainant has over 6 million registered users and about 98 percent of them are girls. Based on an existing and popular story, the company is set out to create the best and most engaging horse adventure games where the player will explore the beautiful island of Jorvik on the back of their own horse. Every player rides, takes care of their own horse, embarks on quests, participates in competitions and takes part in the epic story that unfolds in the world of Star Stable.”

Complainant further states: “Providing a safe and secure environment that is suitable for Star Stable’s players is extremely important to the Complainant and therefore they use Crisp Thinking, a third-party social monitoring solution, to automatically moderate and monitor all chat to ensure a safe environment. Crisp Thinking prevents the sharing of personal information and filters out “bad words” and trigger phrases. The Complainant has also a significant presence on various social media platforms, such as Facebook, Youtube, Instagram, Google+ and Twitter.”

The Disputed Domain Name was created on May 30, 2019, and is being used in connection with a website where, as described by Complainant, “Star Stable players are invited to use Respondent’s software to hack and circumvent the game by use of a hack tool. By submitting their personal Star Stable login information on the website, players can, for instance, obtain unlimited Star Coins. Star Coins that would otherwise have to be bought through Complainant’s official game. Users may think it is officially sanctioned cheating which it isn’t.”

Complainant further states: “This website/software is not distributed or authorized by Complainant and, apart from hacking, if unauthorized, being by its nature an illegitimate activity, these unofficial websites/software programs often have virus programs that will be downloaded to the player’s computer for the website to which the Domain Name resolves.”

Complainant also states: “The Complainant doesn’t have control over the website and cannot guarantee the safety of their players. The purpose of the website appears to be to collect personal data and encouraging players to obtain Star Coins unlawfully. The personal data that is entered is sensitive information and Respondent is attempting to take undue advantage from the registration of a Domain Name which is confusingly similar in all aspects with the Complainant. Such use of the Domain Names might be hazardous for the users as well as for the Complainant’s business and reputation. Accordingly, adequate measures have to be taken to prevent further potential fraudulent attempts from the Respondent through the use of the Domain Name.”

Complainant states that it sent a cease and desist letter to Respondent on May 13, 2019, and a follow-up on June 5, 2019, but that Respondent never replied.

Paragraph 4(a)(i): Complainant states, inter alia, that the Disputed Domain Name is confusingly similar to the STAR STABLE Trademark because it “incorporate[s] in full” the trademark; “[t]he addition of the terms ‘my’ and ‘hack’ do not distinguish the Domain Name from the Complainant’s STAR STABLE trademark”; and the gTLD “.top” is “typically disregarded under the first element confusing similarity test, as it a standard requirement for registration.”

Paragraph 4(a)(ii): Complainant states, inter alia, that Respondent “has no authorization or license from Complainant to register a domain name incorporating Complainant’s trademark”; “Respondent is not affiliated with Complainant in any way”; “[t]here is no bona fide offering of goods or services where the domain name incorporates a trademark which is not owned by Respondent, nor is the Respondent commonly known by the name ‘Star Stable’.”

Paragraph 4(a)(iii): Complainant states that the Disputed Domain Name was registered and is being used in bad faith because, inter alia, Respondent failed to respond to Complainant’s cease and desist letter; “[i]t is apparent that the Domain Name[] [was] registered with knowledge of the Complainant’s trademark rights with the purpose of disrupting Complainant’s business by hacking its game and depriving Complainant of its income”; and “the third-party advertisements and the invitation to players to register for free Star Coins and the lack of clear indication on the (lack of any) relationship between the Complainant and Respondent, strongly suggest that the Domain Name[] [was] registered and [is] being used with the intention of attracting customers for commercial gain by creating a likelihood of confusion with that same mark 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.”

PARTIES CONTENTIONS

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 UDRP).

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 UDRP).

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 UDRP).

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

Identical or Confusingly Similar: Paragraph 4(a)(i):

Based upon the trademark registrations cited by Complainant, it is apparent that Complainant has rights in and to the STAR STABLE Trademark.

As to whether the Disputed Domain Name is identical or confusingly similar to the STAR STABLE Trademark, the relevant comparison to be made is with the second-level portion of the Disputed Domain Name only (i.e., “mystarstablehack”) because “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” WIPO Overview of WIPO Overview 3.0, section 1.11.1.

Here, the Disputed Domain Name contains the STAR STABLE Trademark in its entirety. As set forth in section 1.7 of WIPO Overview 3.0, “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.” Further, section 1.8 of WIPO Overview 3.0 states: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.”

Accordingly, the Panel finds that Complainant has proven the first element of the UDRP.

Rights or Legitimate Interests: Paragraph 4(a)(ii)

Complainant states, inter alia, that Respondent “has no authorization or license from Complainant to register a domain name incorporating Complainant’s trademark”; “Respondent is not affiliated with Complainant in any way”; “[t]here is no bona fide offering of goods or services where the domain name incorporates a trademark which is not owned by Respondent, nor is the Respondent commonly known by the name ‘Star Stable’.”

WIPO Overview 3.0, section 2.1, states: “While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of ‘proving a negative’, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.”

The Panel finds that Complainant has established its prima facie case and without any evidence from Respondent to the contrary, the Panel is satisfied that Complainant has satisfied the second element of the UDRP.

Registered and Used in Bad Faith: Paragraph 4(a)(iii)

Whether a domain name is registered and used in bad faith for purposes of the UDRP may be determined by evaluating four (non-exhaustive) factors set forth in paragraph 4(b) of the UDRP: (i) circumstances indicating that the registrant has registered or the registrant has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name; or (ii) the registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the registrant has engaged in a pattern of such conduct; or (iii) the registrant has registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) by using the domain name, the registrant has intentionally attempted to attract, for commercial gain, Internet users to the registrant's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the registrant's website or location or of a product or service on the registrant's website or location.

The Panel here agrees with a previous panel's decision in a previous, almost identical dispute, involving the domain name <starstablehack.org>, Star Stable Entertainment AB v. Victor Arreaga / WhoisGuard Protected, WhoisGuard, Inc., WIPO Case No. D2015-2315. In that case, the panel found bad faith, writing:
"It is clearly to be inferred from such use that the Respondent registered the disputed domain name with the intention either of impersonating the Complainant or of offering a method to 'hack' the Complainant's website or services. In either case, such registration unfairly targets the Complainant's trademark and constitutes registration in bad faith.

"The Panel determines that the Respondent has used the disputed domain name to link to a website which takes unfair advantage of the Complainant's goodwill in its trademark and services and purports to offer Star Coins which would otherwise have to be purchased from the Complainant. The Panel considers that the references to a 'hack' in connection with the Complainant's game (i.e. an unauthorized method of obtaining the Complainant's Star Coins) also clearly indicate bad faith on the Respondent's part.

"The Panel concludes in all the circumstances that, by using the disputed domain name, the Respondent has attempted to disrupt the business of the Complainant and has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of a product or service on that website (paragraph 4(b)(iv) of the Policy)."

Accordingly, the Panel finds that Complainant has proven the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **MYSTARSTABLEHACK.TOP**: Transferred

PANELLISTS

Name	**Douglas M. Isenberg**

DATE OF PANEL DECISION 2019-12-04

Publish the Decision