Decision for dispute CAC-UDRP-102964

Case number	CAC-UDRP-102964
Time of filing	2020-03-11 11:41:23
Domain names	starstablehqck.club

Case administrator

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

Complainant

Organization	Star Stable Entertainment AB

Complainant representative

Organization	SILKA Law AB

Respondent

Organization	Super Privacy Service LTD c/o Dynadot

OTHER LEGAL PROCEEDINGS

None of which the Panel is aware.

IDENTIFICATION OF RIGHTS

Various registered trade marks comprising or incorporating the term "Starstable" including the following:

(i) US registered trade mark no 3814190 in class 9 for the standard character mark STARSTABLE applied for on 19 November 2009; and

(ii) EU registered trade mark no 008696775 in class 9 for the word mark STARSTABLE with a filing date of 18 November 2009.

FACTUAL BACKGROUND

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

Complainant 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.

The Complainant has also a significant presence on various social media platforms, such as Facebook, Youtube, Instagram, Google+ and Twitter.

Complainant has also registered a number of domain names under generic Top-Level Domains ("gTLD") and country-code Top-Level Domains ("ccTLD") containing the term “STAR STABLE” see for example, <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 (the "Domain Name") was registered on 5 January 2020.

The Respondent is using the Domain Name to redirect to various websites. Depending on when the site is accessed, different sites appears. At times, the site warns for malware.

The Respondent uses a privacy shield.

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 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 a decision.

The Panel observes that the Domain Name is registered in the name of a privacy service, but that in response to the CAC Registrar Verification request the Registrar appears to have failed to disclose details of the underlying registrant in this case. The Registrar response was also late. As such the Registrar is prima facie in breach of the UDRP and/or ICANN's Temporary Specification for gTLD Registration Data (see the discussion in Rubis Energie v. Privacy Administrator, Anonymize, Inc. WIPO Case No. DCO2019-0033).

The Panel considers it inappropriate to find that there has been non-compliance by the Registrar that is sufficiently serious that it should be brought to the attention of ICANN for enforcement purposes, without giving the Registrar a chance to respond to that allegation. But issuing a procedural order to give the Registrar such an opportunity would delay and add to

the cost of these proceedings. Further, if such an order were made it would be something that is likely to justify the Panel calling for an additional fee pursuant to paragraph 1 (b) of Annex A of UDRP Supplemental Rules of the Czech Arbitration Court. The Panel is uncomfortable seeking such a fee from the Complainant in order to address an issue of Registrar conduct and compliance.

Given this, the Panel has decided not to issue a procedural order and to make no formal finding in relation to the Registrar's conduct. Nevertheless, this is an issue the CAC may wish to take up separately with the Registrar and, if so, may wish to bring this aspect of this decision to the Registrar's attention.

PRINCIPAL REASONS FOR THE DECISION

The Panel accepts that the Complainant has trade mark rights in the term "Star Stable" and that most sensible reading of the Domain Name is as the term "Star Stable" in combination with the letters "hqck" and the ".club" top level domain name. It is unclear whether the letters "hgck" have any meaning or not. However, regardless of what, if anything, those additional letters represent, the Complainant's mark is clear recognisable within the Domain Name. The Complainant thereby holds a mark that is "confusingly similar" to the Domain Name as that term is understood under the UDRP. In this respect see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the “WIPO Overview 3.0”). The Complainant has therefore made out the requirements of paragraph 4(a)(i) of the Policy.

The Panel also accepts that the Domain Name was registered and has been held with the intention of taking unfair advantage in some manner of the reputation of the Complainant's mark. Unhelpfully, the Complainant does not provide evidence of the actual use of the Domain Name by way of, for example, screenshots. Nevertheless the Panel is prepared to accept the Complainant's contention that it has been used for various third party website. The Panel therefore concludes that it is most likely that the Respondent has used the similarity between those marks and the Domain Name for the purpose of diverting internet users to website unconnected with the Complainant.

There is no right or legitimate interest in holding a Domain Name for such a purpose and the use of a Domain Name in such a manner is evidence that no such right or legitimate interest exists. Further, the registration and holding of Domain Name for such a purpose is registration and use in bad faith. This is also a case where the registrant's use of a privacy service (and one that appears to be unwilling to disclose underlying registration details) is a factor that supports a finding of bad faith. The Complainant has therefore made out the requirements of paragraph 4(a)(ii) and (iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **STARSTABLEHQCK.CLUB**: Transferred

PANELLISTS

Name	**Matthew Harris**

DATE OF PANEL DECISION 2020-04-23

Publish the Decision