Decision for dispute CAC-UDRP-102418

Case number	CAC-UDRP-102418
Time of filing	2020-06-30 11:28:29
Domain names	dafabet.asia

Case administrator

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

Complainant

Organization	Emphasis Services Limited

Respondent

Name	Tao Da

OTHER LEGAL PROCEEDINGS

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

IDENTIFICATION OF RIGHTS

The Complainant is the owner of several trademarks. In particular, Emphasis Services Limited owns:

- EU trademark DAFABET (word) no. 12067088 registered on February 17, 2014 for classes 38 and 41;

- EU trademark DAFABET (logo) no. 12067138 registered on February 17, 2014 for classes 38 and 41; and

- UK trademark DAFABET (logo) no. 3433886 registered on January 10, 2020 for classes 38 and 41.

FACTUAL BACKGROUND

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

According to the information made available by the Complainant, Emphasis Services Limited, through its subsidiaries and licensees, operates websites offering online gaming and betting with licenses issued in the Philippines, Curacao, Kenya, Spain and the United Kingdom. The Complainant informs that it owns and operates several gaming sites under the brand DAFABET and through the website associated with the domain name <dafabet.com>.

The Complainant also informs that it has, for 18 years, used the name DAFABET to designate its online gaming and betting offerings and that DAFABET is a well-known mark and is currently the Official Main Club Sponsor for Celtic FC, Official Main Team Sponsor for Fulham FC, Principal Club Partner for Norwich City FC, Official Betting Partner of FA Wales and Official Title Sponsor for the World Snooker Championship. DAFABET, according to the information made available by the Complainant, was also named by eGaming Review as among the 50 most influential e-gaming operators in the world.

The Complainant, at present time, is the owner of trademark registrations for DAFABET, in particular said trademark appears

to be protected in the European Union.

The Respondent registered the disputed domain name <dafabet.asia> on May 11, 2020.

In the Complainant's view the disputed domain name should be transferred to the Complainant, because it constitutes usurpation and violation of the rights of the Complainant with regard to its registered trademark.

In accordance with the Complainant's assertions, the disputed domain name is identical to the Complainant’s trademark, because it wholly incorporates the wording “DAFABET”.

Furthermore, the Complainant denies any connection with the Respondent. In particular, according with the Complainant's view, the Respondent’s use of the Complainant’s trademark in its domain name and in its website is unauthorized and illegal.

In addition, the Complainant observes that the Respondent was surely well aware of the Complainant trademark at the time of the registration of the disputed domain name because of its notoriety. The Complainant also informs that the domain name in dispute is currently inactive due to a DMCA take down notice but that previously said domain name resolved in a serious abuse of the Complainant rights. Actually, the Complainant contends that the Respondent is not only using the marks of the Complainant in its domain name, but that, as per the attached screenshots, it, before the DMCA take down notice, has virtually cloned the website by illegally using the Complainant’s graphics, images, designs, content and logos. This, in the Complainant's view, serves to deceive the public in thinking that the Respondent is associated with the Complainant. Therefore, according to the Complainant it is clear that the disputed domain name has been registered and is being used to intentionally attract for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the Complainant’s official website, also creating the impression that the Respondent’s website is sponsored/affiliated or endorsed by the Complainant.

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.

PRINCIPAL REASONS FOR THE DECISION

Paragraph 4(a) of the Policy provides that to obtain the transfer of the disputed domain name, the Complainant must prove that each of the following elements is present:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has

rights;

(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.

(i) The Complainant has established it has rights in the trademark "DAFABET". The Panel notes that "DAFABET" is a well-known trademark as per the information provided by the Complainant and additional Internet searches made by the Panel. The only difference between the disputed domain name and the Complainant's trademark is the gTLD ".asia". The Panel finds that the disputed domain name is identical to the Complainant's mark as "DAFABET" is incorporated in its entirety in the disputed domain name and it is a well-established principle that suffixes (TLDs) such as ".com", "org" or, in this case, ".asia", may be disregarded when determining if there is identity or confusing similarity (see e.g. Playboy Enterprises International, Inc. v. John Taxiarchos, WIPO Case No. D2006-0561; Burberry Limited v. Carlos Lim, WIPO Case No. D2011-0344; Magnum Piercing, Inc. v. The Mudjackers and Garwood S. Wilson, Sr., WIPO Case No. D2000-1525). The Panel therefore finds that paragraph 4(a)(i) of the Policy has been established.

(ii) The Complainant has rights in the trademark "DAFABET" and provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and as the Respondent was never authorized or licensed or otherwise permitted by the Complainant to use the disputed domain name. The Respondent, in the absence of any response, has not shown any facts or elements to justify legitimate rights or interests in the disputed domain name. Therefore, on the basis of the evidences submitted and in the absence of a response the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that the Complainant has satisfied also paragraph 4(a)(ii) of the Policy.

(iii) Paragraph 4(b) of the Policy provides that certain circumstances, if found by the panel to be present, shall be evidence of the registration and use of a domain name in bad faith. The fourth circumstance is as follows:

"(4) by using the [disputed] domain name, [the respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the respondent'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 respondent's] website or location or of a product or service on [the respondent's] website or location."

The Respondent registered the disputed domain name only on May 2020, after the Complainant obtained its trademark registrations. The disputed domain name wholly incorporates the Complainant's "DAFABET" trademark, with no additional element besides the suffix ".asia". The Respondent's website, before the DMCA take down notice, has displayed the Complainant's graphics, images, designs, content and logos and clearly resembled the Complainant's official website. This all gives the Panel reason to believe that the Respondent was not only aware of the Complainant and its "DAFABET" trademark at the time of the disputed domain name registration but also that he has deliberately chosen to register it for using it in bad faith. Actually, the Respondent, before the DMCA take down notice, has used the disputed domain name in connection with an online betting website that may easily decive users to think that said website is affiliated with the Complainant's business. In particular, the Respondent appears to have attempted to benefit commercially from the appropriation of the "DAFABET" mark in the disputed domain name. The use of the mark "DAFABET", which is well-known in the betting sector, for offering betting services, clearly indicates that the disputed domain name was chosen by the Respondent to take advantage of the Complainant's mark reputation. This finding leads to the obvious conclusion that the disputed domain name has been registered in bad faith (Research In Motion Limited v. Privacy Locked LLC/Nat Collicot - WIPO Case No. D2009-0320; The Gap, Inc. v. Deng Youqian - WIPO Case No. D2009-0113; AXA S.A. v. P.A. van der Wees - WIPO Case No. D2009-0206; BHP Billiton Innovation v. Ravindra Bala - WIPO Case No. D2008-1059). It is the Panel's view, that the disputed domain name operates by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website. This use is obviously for commercial gain. The Panel finds that these facts satisfy the requirements of paragraph 4(b)(4) of the Policy.

On the light of the above considerations, the Panel finds that also paragraph 4(a)(iii) of the Policy has been established.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **DAFABET.ASIA**: Transferred

PANELLISTS

Name	**Avv. Guido Maffei**

DATE OF PANEL DECISION 2020-07-23

Publish the Decision