Decision for dispute CAC-UDRP-103208

Case number	CAC-UDRP-103208
Time of filing	2020-07-30 11:17:53
Domain names	starstablecoins.top

Case administrator

Name	Šárka Glasslová (Case admin)

Complainant

Organization	Star Stable Entertainment AB

Complainant representative

Organization	SILKA Law AB

Respondent

Organization	See PrivacyGuardian.org

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of a portfolio of trademark and service mark registrations for the STAR STABLE including:
United States registered trademark STAR STABLE, registration number 3814190, registered on July 6, 2010 for goods in international class 9;
United States registered trademark STAR STABLE, registration number 013204128, registered on January 13, 2015 for goods and services in international classes 16, 25, 28 and 41;
United States registered trademark STAR STABLE (Design plus words) registration number 014171326, registered on September 21, 2015 for goods and services in international classes 9, 16 and 41;
EUTM STAR STABLE, registration number 008696775 registered on 5 April 2010 for goods in Class 9;
EUTM STAR STABLE, registration number 013204128, registered on 13 January 2015 for goods and services in classes 16, 25, 28 and 41;
EUTM STAR STABLE (figurative), registration number 014171326, registered on 21 September 2015 for goods and services in international classes 9, 16, 25 and 41;
EUTM STAR STABLE, registration number 014673198, registered on 24 March 2016 for goods and services in international classes 3, 14, 18, 21, 24, 30, 32.

FACTUAL BACKGROUND

Complainant operates the online horse game STAR STABLE at its website at <starstable.com> and <starstable.org>.
In addition to owning the abovementioned the 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 <starstablecoins.top> was registered on September 17, 2019 and resolves to a website that with the Complainant’s figurative STAR STABLE mark prominently in the header together with the words “STAR STABLE ONLINE GENERATOR”, “STAY TABLE STAR CONIS GENERATOR”, and “HOWDY, Before you can start generating your Star Coins, please enter your Star Stable Username and select the platform which you use.”
There is no information available about the Respondent except for that provided in the Complaint, the Registrar’s WhoIs and the details provided by the Registrar in response to the Center’s request for verification details of the disputed domain name.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:
The Complainant submits that it has operated the online horse game starstable.com. game since 2012. Now has active users in 180 countries and 11 languages and has nearly 200 000 followers and 55,549 subscribers on social media.
The Complainant submits that the disputed domain name is confusingly similar to the Complainant’s STAR STABLE trademark, arguing that it incorporates the Complainant’s registered trademark STAR STABLE in full.
The Complainant further argues that the addition of the associated term “coins” does not distinguish the disputed domain name from the Complainant’s trademark and that the generic Top-Level Domain (gTLD) extension, in this case <.top> is typically disregarded under the first element confusing similarity test, as it a standard requirement for registration.
Therefore, the disputed domain name is confusingly similar to the Complainant’s trademark. See the WIPO Overview on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), paragraph 1.7 and 1.11.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name.
The Complainant asserts that the Respondent has no authorization or license from the Complainant to register a domain name incorporating Complainant’s trademark; that the Respondent is not affiliated with the Complainant in any way; that there is no bona fide offering of goods or services because the disputed domain name incorporates a trademark which is not owned by Respondent, nor is the Respondent commonly known by the name “Star Stable”; that the legal entity displayed in the WhoIs record is a privacy shield and if the Respondent had any legitimate interest in the disputed domain name it would most likely not have chosen to register anonymously.

The Complainant submits that the disputed domain name was registered and is being used in bad faith because the Respondent uses a privacy shield and while use of a privacy or proxy registration service is not in itself an indication of bad faith, the manner in which such service is used can in certain circumstances constitute a factor indicating bad faith, and in this instance it has been to increase the difficulty for the Complainant of identifying the Respondent, which does not reflect good faith. In the circumstances of this case, the Respondent registered and uses the disputed domain name with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.
The Complainant adds that because the STAR STABLE is a well-known trademark in the online video game industry, it is highly unlikely that Respondent was not aware of the rights Complainant has in the trademark and the value of said trademark, at the point of the registration. The Respondent bears no relationship to the trademark and the disputed domain name has no other meaning except for referring to Complainant’s name and trademark.
The Complainant argues that the disputed domain name and the Complainant’s trademark is being used to target the Complainant by redirecting Internet users to various third-party websites.

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 UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The Complainant has adduced clear, convincing and uncontested evidence that it is the owner of the STAR STABLE name and mark through its ownership of its portfolio of trademark registrations and its extensive use of the mark for its online game on its <starstable.com> platform, and a significant presence on various social media platforms.

There is no information available about the Respondent except for that provided in the Complaint, the Registrar's WhoIs and the details provided by the Registrar in response to the Center's request for verification details of the disputed domain name.

The disputed domain name consists of the Complainant's trademark in combination with the descriptive term "coins" and the generic Top-Level Domain (gTLD) extension <.top>. The term "coins" provides no distinctive character to the disputed domain name and for the purposes of comparison the gTLD <.com> extension may be ignored in the circumstances of this Complaint because as a top level domain extension, it would be recognized as a technical necessity for a domain name and serves no other purpose or meaning in the context.

This Panel finds therefore that the disputed domain name is confusingly similar to the trademark in which Complainant has rights and Complainant has succeeded in the first element of the test in Policy paragraph 4(a)(i).

The Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name alleging:
that the Respondent has no authorization or license from the Complainant to register a domain name incorporating Complainant's trademark;
that the Respondent is not affiliated with the Complainant in any way; that there is no bona fide offering of goods or services because the disputed domain name incorporates a trademark which is not owned by Respondent;
that the Respondent commonly known by the name "Star Stable";
that the legal entity displayed in the WhoIs record is a privacy shield and if the Respondent had any legitimate interest in the disputed domain name it would most likely not have chosen to register anonymously.

It is well established that if Complainant makes out a prima facie case, the burden of production shifts to Respondent to prove his rights or legitimate interests in the disputed domain name. Respondent has failed to file any Response to the Complaint or provide any defence to Complainant's allegations and so has not discharged the burden. In the circumstances

this Panel must find that on the balance of probabilities Respondent has no rights or legitimate interests in the disputed domain name.
Having considered the uncontested submissions and evidence adduced it is clear that the disputed domain name was registered in bad faith to target the Complainant's name, mark, domain name and online game. It is most improbable that the registrant of the disputed domain name was unaware of the Complainant and its online game when the disputed domain name was chosen and registered.

This conclusion is supported by the fact that the disputed domain name resolves to a website, which has no connection with the Complainant, which very suspiciously invites Internet users to insert their usernames for the Complainant's game, and which presents itself as either being the Complainant's website or in some way authorised by the Complainant as the Complainant's distinctive figurative trademark appears as the first item on the banner of the home page.

This Panel finds therefore that on the balance of probabilities the disputed domain name <starstablecoins.top> was registered and is being used in bad faith, with the intention to attract, for commercial gain, Internet users to the website by creating a likelihood of confusion with the trademark of Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location.

As this Panel has found that the disputed domain name was registered and is being used in bad faith, Complainant has therefore succeeded in the third element of the test in Policy paragraph 4(a)(iii) and is entitled to the remedy requested in the Complaint.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **STARSTABLECOINS.TOP**: Transferred

PANELLISTS

Name	**Mr James Jude Bridgeman**

DATE OF PANEL DECISION 2020-08-24

Publish the Decision