Decision for dispute CAC-UDRP-103512

Case number	CAC-UDRP-103512
Time of filing	2021-01-15 14:40:12
Domain names	starsstable.com

Case administrator

Organization	Denisa Bilík (CAC) (Case admin)

Complainant

Organization	Star Stable Entertainment AB

Complainant representative

Organization	SILKA AB

Respondent

Organization	Power Click, Wesley Karr

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 several trademarks containing the terms “STAR STABLE”, in particular the US trademark registration STAR STABLE No. 3814190 registered on 06/07/2010 for goods in class 9; the US trademark registration STAR STABLE No. 13204128 registered on 13/01/2015 for goods and services in classes 16, 25, 28 and 41.

FACTUAL BACKGROUND

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

It results from the Complainant’s undisputed allegations 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. The Complainant has also a significant presence on various social media platforms, such as Facebook, Youtube, Instagram, Google+ and Twitter.

It also uses the official website <starstable.com> through which it informs potential customers about its STAR STABLE mark, games and merchandise.

The Complainant further contends its trademark STAR STABLE be well-known in the online video game industry.

The disputed domain name <starsstable.com> was registered on 30/11/2017 and redirects to the Complainant's official website <starstable.com>.

Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name is offered for sale on a third-party platform.

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

1. The Panel finds that the disputed domain name <starsstable.com> is confusingly similar to the Complainant's trademarks "STAR STABLE". In the case at issue the Complainant's registered trademark "STAR STABLE" is fully included in the disputed domain name. On this regard, it is the view of this Panel that the addition of the consonant "s" - between the letters "r" and "s" - results to be a common, obvious or intentional misspelling of the trademark "STAR STABLE". Thus, the disputed domain name contains sufficiently recognizable aspects of the relevant mark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0") at point 1.9.

2. In the absence of any Response, or any other information from the Respondent indicating the contrary, the Panel further holds that the Complainant successfully presented its prima facie case and that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did, in particular, not authorize the Respondent's use of the trademark STAR STABLE, e.g., by registering the disputed domain name comprising the said trademark entirely. Furthermore, the Complainant provided evidence that the disputed domain name redirects to the Complainant's official website <starstable.com> and that the disputed domain name is offered for sale on a third-party platform. This Panel finds that such use can neither be considered as bona fide offering of goods or services nor a legitimate non-commercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

3. It is the view of this Panel that disputed domain name has been registered and is being used in bad faith. In particular, the Respondent has intentionally registered the disputed domain name which comprises the Complainant's trademarks entirely. By the time the disputed domain name was registered, it is unlikely that the Respondent did not have knowledge of the Complainant's rights on its trademarks.

Furthermore, the Complainant also proved that the disputed domain name redirects to the Complainant's official website <starstable.com>. This Panel shares the view mentioned in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0") at point 3.1.4: "(..) panels have found that a respondent redirecting a domain name to the complainant's website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant".

The finding of bad faith registration and use is supported by the further circumstances resulting from the case at hand which are (i) the Respondent's failure to submit a response; (ii) its failure to provide any evidence of actual or contemplated good-faith use; (iii) the implausibility of any good faith use to which the domain name may be put; and (iv) the undisputed evidence provided by the Complainant proving that the disputed domain name is offered for sale on a third-party platform.

In the light of the above the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 4(a)(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. **STARSSTABLE.COM**: Transferred

PANELLISTS

Name	**Dr. Federica Togo**

DATE OF PANEL DECISION 2021-02-19

Publish the Decision