

Decision for dispute CAC-UDRP-103676

Case number CAC-UDRP-103676

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Domain names starstabe.com

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization Star Stable Entertainment AB

Complainant representative

Organization SILKA AB

Respondent

Organization Domain Privacy Guard Sociedad Anónima Ltd

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 owns a number of trade marks consisting of the name STAR STABLE, including the US trade mark STAR STABLE, registration number 3814190, first registered on 6 July 2010, in international class 9; the US trade mark STAR STABLE, registration number 013204128, first registered on 13 January 2015, in international classes 16, 25, 28, and 41; the combined US trade mark STAR STABLE, registration number 014171326, first registered on 21 September 2015, in international classes 9, 16 and 41; and the EU trade mark STAR STABLE, registration number 008696775, first registered on 5 April 2010, in international class 9. At least one of the Complainant's US trade marks and the Complainant's EU trade mark registration both predate first registration of the disputed domain name <starstabe.com> in 2013.

Furthermore, the Complainant owns a number of top-level domain names consisting of the words STAR STABLE, including the domain name <starstable.com>, registered on 16 October 2007; and <starstable.org>, registered on 16 May 2012, which are connected to the official Star Stable website.

FACTUAL BACKGROUND

The Complainant was founded in 2011 and is a privately held company located in Sweden. It operates the online horse game

Star Stable. The game has players from all over the world with active users in 180 countries and 11 languages. When the game launched in late 2012, it was offered only in Swedish. 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 set out to create horse adventure games.

Providing a safe and secure environment that is suitable for Star Stable's players is very important to the Complainant. The Complainant therefore uses 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 also has a significant presence on various social media platforms, such as Facebook, Youtube, Instagram, Google+ and Twitter.

The disputed domain name <starstabe.com> was first registered in 2013 but has since changed registrars. The Respondent registered the disputed domain name on 25 November 2018. The disputed domain name currently resolves to a parking page with commercial links. There is no evidence before the Panel that the disputed domain name has ever been used for an active website since it was registered.

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 trade mark 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

With regard to the first UDRP element, the Panel finds that the disputed domain name <starstabe.com> is confusingly similar to the Complainant's trade mark STAR STABLE. Indeed, the disputed domain name incorporates the Complainant's trade mark in its entirety, save that the disputed domain name omits the letter "L" from the Complainant's trade mark. The Panel considers this case to be a plain case of "typo squatting", i.e., the disputed domain name contains an obvious misspelling of the Complainant's trade mark, which is not sufficient to alter the overall impression of the designation as being connected to the Complainant's trade mark. The deletion of the letter "L" does not prevent the likelihood of confusion between the disputed domain name and the Complainant, its trade marks and associated domain names. The Panel follows in this respect the view established by numerous other decisions that a domain name which consists of a common, obvious, or intentional misspelling of a trade mark is to be considered to be confusingly similar to the relevant trade mark (see, for example, CAC Case No. 103124, Boehringer Ingelheim Pharma GmbH & Co.KG v. Fundacion Comercio Electronico <boehringeringelheimpetreebates.com>; CAC Case No. 101990, JCDECAUX SA -v- Emma Purnell <jcdeceux.com>, and CAC case No. 101892, JCDECAUX SA -v- Lab-Clean Inc <jcdacaux.com>).

With regard to the second UDRP element, there is no evidence before the Panel to suggest that the Respondent has made any use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Neither is there any indication that the Respondent is making legitimate non-commercial or fair use of the disputed domain name. Indeed, the disputed domain name is not being used for any active website but resolves to a parking page with commercial links, which has in itself been regarded by other panels as supporting a finding that the respondent did not have a bona fide offering of goods or services or make legitimate non-commercial or fair use of the disputed domain names (see, for example, Forum Case No. FA 970871, Vance Int'l, Inc. v. Abend (concluding that the operation of a pay-per-click website at a confusingly similar domain name does not represent a bona fide offering of goods or services or a legitimate non-commercial or fair use, regardless of whether or not the links resolve to competing or unrelated websites or if the respondent is itself commercially profiting from the click-through fees); and WIPO Case No. D2007-1695, Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe ("Respondent's use of a domain name confusingly similar to Complainant's trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use.")). The Panel further finds that the Respondent is not affiliated with or related to the Complainant in any way and is neither licensed nor otherwise authorised to make any use of the Complainant's trade mark or to apply for or use the disputed domain name. Finally, the Whois information does not suggest that the Respondent is commonly known by the disputed name <starstabe.com>. Absent any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

With regard to the third UDRP element, it is reasonable to infer that the Respondent either knew, or should have known, that the disputed domain name would be identical with or confusingly similar to the Complainant's trade mark, and that it registered the disputed domain name in full knowledge of the Complainant's trade mark. Indeed, if the Respondent had carried out a Google search for the term "Star Stable", the search results would have yielded immediate results related to the Complainant, its website at <starstable.com>, and its connected business and services. The Panel concludes that it is difficult in those circumstances to believe that the Respondent was unaware of the Complainant's trade mark. Indeed, it is likely that the disputed domain would not have been registered if it were not for the Complainant's trade mark (see, for example, WIPO Case No D2004-0673 Ferrari Spa -v- American Entertainment Group Inc).

Furthermore, the website related to the disputed domain name currently resolves to a parking page with commercial links related to the Complainant's activities. Based on the decisions of other panels in similar cases, the Panel accepts the Complainant's submissions that the Respondent's attempt to attract Internet users for commercial gain to its own website based on the Complainant's trade mark is evidence of bad faith (see, for example, WIPO Case No. D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC ("In that circumstance, whether the commercial gain from misled Internet users is gained by the Respondent or by the Registrar (or by another third party), it remains that the Respondent controls and cannot (absent some special circumstance) disclaim responsibility for, the content appearing on the website to which the disputed domain name resolve [...] so the Panel presumes that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.")).

Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. STARSTABE.COM: Transferred

PANELLISTS

Name	Gregor Kleinknecht
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DATE OF PANEL DECISION 2021-04-23

Publish the Decision
