

Decision for dispute CAC-UDRP-104099

Case number CAC-UDRP-104099

Time of filing 2021-11-05 09:27:02

Domain names starstable.studio

Case administrator

Organization Denisa Bilík (CAC) (Case admin)

Complainant

Organization Star Stable Entertainment AB

Complainant representative

Organization SILKA AB

Respondent

Name adwad dwadwfawf

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 registered verbal STAR STABLE Trademarks in several countries in the world, e.g. USPTO July 6, 2010 3814190 UNITED STATES, international class 9 for electronic games, OHIM 008696775 05/04/2010 EU and STAR STABLE OHIM 013204128 13/01/2015 EU.

All are active and were registered before the Respondent registered the disputed domain name.

The Complainant also provided evidence that it owns a domain name containing the name "starstable", e.g. <starstable.com>, registered well before the Respondent registered the disputed domain name.

FACTUAL BACKGROUND

The Complainant was founded in 2011 in Stockholm, Sweden. The Complainant is the maker of the popular adventure game Star Stable Online – the currently #1 ranked and fastest-growing horse game in the world - as he said. Over the years Complainant has extended his product line to music, publishing and several apps. Star Stable Online is an exciting online game where adventures, horses, and mysteries are waiting to be explored. The Complainant has also a significant presence

on various social media platforms, such as Facebook, Youtube, Instagram, Google+ and Twitter. The Complainant is further the owner of the registered trademark STAR STABLE as a word mark in numerous of countries all over the world including in Europe and in the United States.

The Complainant asserted as an example the US trademark registration No. 3814190 (registered in 2010), US Trademark Registration No. 13204128 (registered in 2015), US Trademark Registration No. 14171326 (registered in 2015). The trademark registrations predate the registration of the disputed domain name. 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 <Starstable.studio> which was registered on February 27, 2021 incorporates in full the Complainant's registered trademark STAR STABLE coupled with the generic gTLD "studio".

The Complainant said there is no bona fide offering of goods or services, nor is the Respondent known by the name "Star Stable". The person or legal entity displayed in the whois record is hidden under a privacy shield. The Respondent seems to live in Aserbaijan but uses a US Provider and a US email address. The Respondent has communicated with the Complainant's customer service agents from the email hackedurtoaster@gmail.com but the name of the Respondent is not shown. The owner of the disputed domain name is anonymous. The disputed domain name previously redirected to a third party website called <https://www.guileded.gg> which helped players to cheat. Moreover, the Complainant asserted so called cheat or hack sites are not considered as bona fide use of the disputed domain name.

Also, the Respondent's name doesn't correspond with the disputed domain name and Respondent does not appear to have any trademark rights associated with the term "Star Stable". Obviously, the Respondent has not used the disputed domain name in connection with a bona fide offering of goods or services nor for a legitimate non-commercial or fair purpose but rather to offer the disputed domain name for sale and not to redirect to any valid content on the Internet. Previous UDRP panels have recognized that the mere registration of a domain name, does not by itself automatically confer rights or legitimate interests in the disputed domain name (see WIPO Overview 3.0, section 2.10.).

On April 23, 2021, the Complainant sent a cease-and-desist letter to the Respondent. In the letter the Complainant requested the Respondent to cease the use of the disputed domain name and transfer it to the Complainant on the basis of the Complainant's trademark. The Respondent subsequently contacted the Complainant's customer service agent on April 26, 2021 stating that they don't control the disputed domain name and that the nameservers were redirected to someone else. Complainant's representative then followed up with the owner and asked the Respondent once more to transfer the domain name. Several reminders were sent and the Respondent requested to see proof that the representative could act on behalf of the Complainant. Complainant attached a letter of authorization to the next follow up letter. A final reminder was sent on June 14, 2021 and since then the Respondent has not responded.

The Complainant summarized, 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. 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 and there is no way in which the disputed domain name could be used legitimately. Consequently, Respondent should be considered to have registered and to be using the disputed domain name in bad faith.

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

It is necessary for the Complainant, if it is to succeed in this administrative proceeding, to prove each of the three elements referred to in paragraph 4(a) of the Policy, namely that:

- (i) the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interest in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel finds that the domain name <starstable.studio> is identical or confusing similar to the trademarks of the Complainant. The disputed domain name, which were registered on, incorporate entirely the Complainant's in gaming business well-known, registered trademark STAR STABLE. The addition of the gTLD ".studio" does not add any distinctiveness to the disputed domain name. Here is the generic Top-Level Domain (gTLD) ".studio" a synonym for a plant or office where the software creating work is done. See as an example the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Jurisprudential Overview 3.0"), paragraph 1.11. as well as the International Business Machines Corporation v. Sledge, Inc. / Frank Sledge WIPO Case No. D2014-0581 where the Panel stated the following: "In addition, it is generally accepted that the addition of the top-level suffix in the domain name (e.g., ".com") is to be disregarded under the confusing similarity test".

The Complainant rightfully contended that the disputed domain name is identical or at least confusingly similar to the prior trademark STAR STABLE of the Complainant. The Complainant also referred to the distinctiveness and reputation of its STAR STABLE trademarks. Reference is made to: CAC case N° 101036, Boehringer Ingelheim Pharma GmbH & Co. KG vs. SKYRXSHOP - dulcolax.xyz and WIPO Case no. D2014-0306 Boehringer Ingelheim Pharma GmbH & Co. KG v. Klinik Sari Padma, BAKTI HUSADA.

Therefore, the disputed domain name is identical or confusingly similar to the Complainant's trademark.

Further there is no bona fide offering of goods or services where the disputed domain name incorporates a trademark which is not owned by Respondent, nor is the Respondent known by the name "Star Stable". The legal entity displayed in the Whois record is hidden under a privacy shield. Should the Respondent have any legitimate interest in the disputed domain name he would most likely not have chosen to register anonymously. In fact, the Whois privacy service hides the identity of the person behind an infringing website and makes it more challenging for brands to enforce their trademarks. The Respondent has communicated with the Complainant's customer service agents from the email hackedurtoaster@gmail.com but the name of the Respondent is not shown.

The disputed domain name previously redirected to a third party website called <https://www.guileded.gg> which helped players to cheat. It has been stated in earlier decisions that so called cheat or hack sites are not considered as bona fide use of the domain name. See for instance CAC case No. 103339 Star Stable Entertainment AB v. Banchri Bochtamed concerning the domain name <STARSTABLEHACK.BEST> where the Panel held that: This cheat tool seemingly allows users to unlawfully generate credit in the Complainant's video game for free, while users normally have to pay money to the Complainant in order to gain 'in-game' credit. The Panel concluded that the this was not considered as legitimate use of the

domain name.

For the foregoing reasons, it shall be concluded that the Respondent has no right nor legitimate interest in respect of the disputed domain name.

Moreover, the Panel is convinced that the fact the Respondent uses a privacy shield and although 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. Here in this case the fact that it also suggests that a motive for using a domain privacy service in this instance has been to increase the difficulty for the Complainant of identifying the Respondent, which does not reflect good faith. The reaction of the Respondent to the cease and desist letter emphasised this. Since the amicable approach has been unsuccessful, the Complainant chose to file a UDRP complaint.

This is a clear evidence of registration of the domain names in bad faith, see in this concern, Halifax Plc. v. Sontaja Sanduci, WIPO Case No. D2004-0237 and also CarrerBuilder LLC v. Stephen Baker, WIPO Case No. D2005-0251.

Further the Panel is convinced that the use of the disputed domain name shows bad faith because redirecting the domain to a third party website called <https://www.guiled.gg> which helped players to cheat cannot be good faith at all; e.g. WIPO Case No. D2016-0245, Heraeus Kulzer GmbH. v. Whois Privacy Services Pty Ltd / Stanley Pace.

Accordingly, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith under 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. **STARSTABLE.STUDIO**: Transferred

PANELLISTS

Name	Dr. jur. Harald von Herget
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DATE OF PANEL DECISION 2021-12-02

Publish the Decision
