

Decision for dispute CAC-UDRP-104098

Case number	CAC-UDRP-104098
Time of filing	2021-12-13 09:05:09
Domain names	Starstable.shop, Starstable.live

Case administrator

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

Organization	Star Stable Entertainment AB
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Complainant representative

Organization	SILKA AB
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Respondent

Name	Lucifer Hansson
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the registered owner of a portfolio of trademark and service mark registrations including the following:

- United States registered trademark and service mark STAR STABLE, registration number 3814190 registered on the Principal Register on July 6, 2010 for goods and services in international classes 9, 21, 23 26, 36, 38;
- United States registered trademark and service mark STAR STABLE, registration number 13204128 registered on the Principal Register on January 13, 2015 for goods and services in international classes 16, 25, 28, 41;
- United States registered trademark and service mark STAR STABLE (design words, letters), registration number 13204128 registered on the Principal Register on September 21, 2015 for goods and services in international classes 9, 16 and 41;
- European Union Trade Mark STAR STABLE, registration number 008696775, registered on April 5, 2010 for goods in class 9;

Complainant has also acquired rights in the mark by extensive use, having an established Internet presence with website at <https://shop.starstable.com/> and a presence on various social media platforms, such as Facebook, YouTube, Instagram, Google+ and Twitter.

FACTUAL BACKGROUND

The Complainant is a games manufacturer and markets an online game called STAR STABLE ONLINE and is the owner of the trademark and service mark STAR STABLE, as described above, which it uses to distinguish its online game and other services.

The record shows that the disputed domain name <starstable.live> was registered on July 7, 2021 and the disputed domain name <starstable.shop> was registered on July 15, 2021. In each case the registrant of the disputed domain names has availed of a privacy service to conceal his identity.

The disputed domain names are being passively held and neither resolves to any active website.

There is no information available about Respondent, except for that provided in the Compliant, the Registrar's WhoIs and the information provided by the Registrar in response to the request by the CAC for verification of the registration details of the disputed domain name. The Registrar confirmed that Respondent is the registrant of the disputed domain names.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant claims rights in the STAR STABLE trademark and service mark established by its ownership of the portfolio of registrations described below and its extensive use of the mark in its Internet-based games products and related services.

Founded in 2011 in Stockholm, Sweden, the Complainant is the maker of the game STAR STABLE ONLINE. Over the years its product line has extended to providing music, publishing, and several apps. The Complainant explains that its STAR STABLE ONLINE is an online adventure game for children, based on exploration with horse characters, which it claims to be the currently #1 ranked and fastest-growing horse game in the world.

The Complainant asserts that it also operates an online shop web shop at its website at <<https://shop.starstable.com/>> hosts numerous live events and has a significant presence on various social media platforms, such as Facebook, YouTube, Instagram, Google+ and Twitter.

The Complainant alleges that the disputed domain names are identical or confusingly similar to its STAR STABLE registered mark as each consists of the mark in full, coupled with the generic Top Level Domain ("gTLD") extensions <.live> and <.shop> and argues that gTLD extensions are typically disregarded under the first element confusing similarity test, as it is a standard requirement for registration and do not negate a finding of similarity between the Complainant's trademark and the disputed domain names.

The Complainant further alleges that the Respondent has no rights or legitimate interests in either of the disputed domain names arguing that there is no bona fide offering of goods or services because the disputed domain names each incorporate the Complainant's STAR STABLE trademark and the Respondent does not appear to have any trademark rights associated with the term "Star Stable".

The Complainant also alleges that the disputed domain names are passively held and do not resolve to any active websites.

Additionally, the Complainant contends that the Respondent, who availed of a privacy service to conceal his identity on the

published Whois, is not known by the name "Star Stable" as the Registrar disclosed the Respondent's name in the course of these proceedings to be Lucifer Hansson which does not correspond with either of the disputed domain names.

The Complainant adds that the Respondent's use of the privacy shield to conceal his identity on the published Whois is indicative of a lack of legitimate interest in the disputed domain names.

Moreover, it appears that the Respondent is connected to a competitor's website "that features an upcoming role-playing game" that would compete with the Complainant's offering.

The Complainant then alleges that the disputed domain names were registered and are being used in bad faith arguing that the Respondent's address, as disclosed by the Registrar, is a Swedish address which supports the assertion that the Respondent must have known the Complainant at the time of the registration since the Complainant is a Swedish company.

Furthermore, the Complainant submits the Respondent's use of a privacy shield suggests a motive to increase the difficulty for the Complainant of identifying the Respondent, which does not reflect good faith registration.

The Complainant adds that both of the disputed domain names are being passively held as shown in screen captures of identical parking pages to which they each resolve, annexed to the Complaint.

The Complainant submits that countless decisions of panels established under the Policy have confirmed that such passive holding of a domain name with knowledge that the domain name in issue infringes another party's trademark rights is evidence of bad faith registration and use (see, in this regard, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003). In particular, previous panels have tended to make such findings in circumstances in which, for example, a complainant's mark is well-known, and there is no conceivable use that could be made of the domain name in issue that would not amount to an infringement of the Complainant's trademark rights.

The Complainant submits that in the current case, the evidence adduced proves the established reputation of its STAR STABLE trademark and argues that in the totality of the circumstances of this case, such non-use of the disputed domain names should be considered as bad faith given the degree of distinctiveness of the trademark STAR STABLE, and the Respondent concealing his identity on the published Whois.

Finally, the Complainant submits that on September 7, 2021, the Complainant sent a cease-and-desist letter to the Respondent, requesting the Respondent to cease the use of the disputed and transfer them to the Complainant on the basis of the Complainant's trademark rights. A reminder was sent on September 27, 2021. The Complainant asserts that it received no response to these letters and argues that the Respondent's failure to respond to these communications are indicative of bad faith registration and use of the disputed domain names.

RESPONDENT:

No administrative complaint Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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 provided convincing evidence that it has rights in the STAR STABLE mark established by its ownership of the trademark and service mark registrations described above and its extensive use of the mark since 2011 on its goods and services including the STAR STABLE ONLINE game, music, publishing on its website and on various social media platforms as well as hosting live events.

Each of the disputed domain names consists only of the Complainant's STAR STABLE in combination with the gTLD extensions <.live> and <.shop>.

In the circumstances of this Complaint, the gTLD extensions would be considered by Internet users as a necessary technical requirement for a domain name giving no distinguishing character to the disputed domain names.

This Panel finds therefore that the disputed domain names are each identical to the STAR STABLE mark in which Complainant has rights and Complainant has therefore succeeded in the first element of the test in Policy paragraph 4(a)(i).

The Complainant has made out a prima facie case that Respondent has no rights legitimate interests in the disputed domain names arguing that:

- there is no bona fide offering of goods or services because the disputed domain names each incorporate the Complainant's STAR STABLE trademark;
- the Respondent does not appear to have any trademark rights associated with the term "Star Stable";
- the disputed domain names are passively held and do not resolve to any active websites;
- the Respondent availed of a privacy service to conceal his identity on the published Whois, is not known by the name "Star Stable" as the Registrar disclosed the Respondent's name in the course of this proceedings to be Lucifer Hansson which does not correspond with either of the disputed domain names;
- the Respondent's use of the privacy shield to conceal his identity on the published Whois is indicative of a lack of legitimate interest in the disputed domain names; and
- it appears that the Respondent is connected to a competitor's website "that features an upcoming role-playing game" that would compete with the Complainant's offering.

It is well established that once a complainant makes out a prima facie case that a complainant has no rights or legitimate interests in the domain name at issue, the burden of production shifts to the respondent to prove his rights or legitimate interests.

The Respondent has failed to discharge that burden and therefore this Panel must find that the Respondent has no rights or legitimate interests in the disputed domain names. The Complainant has therefore succeeded in the second element of the test in Policy paragraph 4(a)(ii).

The Complainant has shown that it has an established reputation in the use of the STAR STABLE mark on STAR STABLE ONLINE game and related products and services, which is enhanced by an active presence on social media platforms.

STAR STABLE is a distinctive combination of words, which has been used since 2011 by the Complainant on various online platforms and it is improbable that the registrants chose and registered the two disputed domain names that are identical to the Complainant's mark, without knowledge of Complainant, its mark, STAR STABLE ONLINE game and its reputation in the field of Internet based games.

On the balance of probabilities therefore, this Panel finds that the disputed domain names were each registered in bad faith with the intention of targeting and taking predatory advantage of Complainant's mark and goodwill.

The Complainant has alleged that the registrant of the disputed domain names is connected with the upcoming launch of a competing game because the registration details for the disputed domain names include an e-mail address associated with the competitor. While it is indeed possible that the disputed domain names were registered by a person associated with the forthcoming launch of an online game, this Panel is of the view that it is improbable that a genuine competitor would take such a non-business-like step. This Panel therefore makes no finding in that regard and this Panel finds that it is prudent not to identify the third-party game in this decision.

This Panel finds however that in the context of this Complaint on the balance of probabilities the passive holding of each of the disputed domain names by the Respondent, in identical circumstances, amounts to use in bad faith for the purposes of the Policy. In making this decision, this Panel has considered in particular, the distinctive character and reputation of the STAR STABLE mark, the fact that the disputed domain names are each identical to the STAR STABLE mark, the only difference being that they are each established in different gTLDs, the fact that the Respondent availed of a privacy service to conceal his identity, that the Respondent has used a Swedish contact address for the registrations when the Complainant is a Swedish based company, and the e-mail address provided by the Respondent relates to a competing business.

As this Panel has found that the disputed domain names were registered and are being used in bad faith, Complainant has succeeded in the third element of the test in Policy paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **STARSTABLE.SHOP**: Transferred
2. **STARSTABLE.LIVE**: Transferred

PANELLISTS

Name	Mr James Jude Bridgeman
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DATE OF PANEL DECISION **2022-01-07**

Publish the Decision
