# Decision for dispute CAC-UDRP-101099

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| Case number | CAC-UDRP-101099 |
| Time of filing | 2015-11-13 13:46:14 |
| Domain names | 2dafabet.com, 3dafabet.com, 4dafabet.com, 5dafabet.com, 6dafabet.com, 7dafabet.com, 8dafabet.com, 9dafabet.com, balldafabet.com, df882.com |

## Case administrator

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| Name | Lada Válková (Case admin) |

## Complainant

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| Organization | Emphasis Services Limited |

## Respondent

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| Name | SHI JIN CHEN |

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to disputed domain name.

IDENTIFICATION OF RIGHTS

Complainant EMPHASIS SERVICES LIMITED (the “Complainant”), through its subsidiaries and licensees, operates websites offering online gaming and betting with licenses issued in the Philippines, Isle of Man and the United Kingdom. The Complainant owns and operates several gaming sites under the brand “Dafa” (i.e. dafabet.com & dafa888.com). The Complainant has, for more than 14 years, used the name “Dafa” in varying combinations to designate its online gaming and betting offerings. The Complainant in fact, has registered its rights over the brand “Dafa” in Malaysia, Philippines and Hong Kong and has likewise secured a CTM registration for the name and graphic representation (logo) for “Dafabet”. “Dafabet” is a well-known mark and is currently the Official Main Club Sponsor for the Sunderland and Blackburn Rovers Football Clubs, Official International Betting Partners for Everton and Celtic Football Clubs (where the Dafabet mark and logo are prominently displayed). Further, Dafabet has also sponsored high level sporting events such as the World Snooker Championship among others. Dafabet was also named by eGaming Review as 21st among the 50 most influential e-gaming operators in the world.

The dispute domain names 2DAFABET.COM, 3DAFABET.COM, 4DAFABET.COM, 5DAFABET.COM, 6DAFABET.COM, 7DAFABET.COM, 8DAFABET.COM, 9DAFABET.COM, BALLDAFABET.COM were registered on 4 July 2015. The disputed domain name DF882.COM was registered on 27 October 2015.

FACTUAL BACKGROUND

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

The UNIFORM DOMAIN NAME DISPUTE RESOLUTION POLICY of the Internet Corporation for Assigned Names and Numbers (ICANN) (the “Policy”) provides that Complainant must prove each of the following to obtain transfer or cancellation of the

disputed domain names:
1. that Respondent's domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
2. that Respondent has no rights or legitimate interests in respect of the domain name; and
3. the domain name has been registered and is being used in bad faith.
Identical or Confusingly Similar

Essentially, the Respondent has appropriated the trademark Dafabet and added a prefix letter before the mark. In Nintendo of America, Inc. vs. Garett N. Holland et al (Case No. D2000-1483), the WIPO Arbitration and Mediation Center held that a user of a mark may not avoid likely confusion by appropriating another's entire mark and adding descriptive or non-distinctive matter to it. It further added that a domain may be deemed as identical or similar if it incorporates the primary, distinctive element of the trademark. According to the Complainant, the Respondent copied the whole mark of "Dafabet" and merely added a prefix letter.
Rights or Legitimate Interests

As previously mentioned, the Complainant is the owner of intellectual property rights pertaining to "Dafa" and "Dafabet" due to its registration in various jurisdiction and its usage and notoriety. The Complainant denies any direct connection with the Respondent that Respondent's use of the Complainant's intellectual property in its domain name and website are unauthorized and illegal.

The Complainant claims the Respondent will not be able to show prior usage, registration or any right to use the mark "Dafa" or "Dafabet" for his websites. In fact, Respondent's illegal usage of Complainant's logos, images and content on his websites is a clear sign of bad faith.

Bad Faith

As above-stated, Respondent's illegal use of the Complainant's intellectual property on his websites is indicative of Respondent's intentions in using the Complainant's mark "Dafabet" in his domain names. The Respondent is making it appear that his websites are affiliated with the Complainant by not only using the "Dafabet" mark in his domain names, but also making the websites appear almost exactly the same as that of Complainant.

The criteria for the determination of usage of domain name in bad faith is set forth in the Policy, paragraph 4(b)(iv) of which states:

"(iv) by using the domain name, (Respondent) ha(s) intentionally attempted to attract, for commercial gain, Internet users to (Respondent's) web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of (Respondent's) web site or location or of a product or service on (Respondent's) web site or location."

The Complainant provides evidence according to which the Respondent is not only using the marks of the Complainant in his domain names, but it has virtually cloned the website by illegally using the Complainant's graphics, images, designs, content and logos. This is a blatant attempt to deceive the public in thinking that they are associated with the Complainant and transact business with them.

The Complainant claims the Respondent is well aware that the Complainant is the owner of the mark "Dafa" and "Dafabet" because of:

1. Registrations in various jurisdictions;

2. Goodwill and notoriety of the trademarks;

3. Respondent's illegal usage of Complainant's logos, content, images and designs in its website;

As previously mentioned, “Dafa” and “Dafabet” are not only registered marks in various jurisdictions, it is likewise well known marks due to sponsorship with football clubs, the English Premier League and the World Snooker Championship. Further, any claim of the Respondent to lack of knowledge over Complainant’s ownership over the name “Dafa” and "Dafabet" is negated by the fact that it has used the Complainant’s marks on its websites.

The Respondent has been sent a cease and desist letter, but no reply was received and the Respondent has persisted in his illegal activities

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:
See Factual Background.

RESPONDENT:
The Respondent did not respond to the Complainant at all even it is obliged to do so.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the 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 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 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 main issues under UDRP are whether:

i. the domain names are identical or confusingly similar to a domain name or a trademark or service mark in which the Complainant has rights; and

ii. the Respondent has no rights or legitimate interests with respect to the domain names; and

iii. the domain names has been registered and is being used in bad faith.

2. The Panel reviewed carefully all documents provided by the Complainant. The Panel also visited all available websites and public information concerning disputed domain names, namely the WHOIS database and related trademark register databases.

3. The Uniform Domain Names Dispute Resolution Policy in its paragraph 4 defines what has to be understood as an evidence of the registration and use of the domain name in bad faith.

Particularly paragraph 4(b)(iv) of the Policy has to be considered in this case.

The Rules for Uniform Domain Name Dispute Resolution Policy clearly stipulate in Article 3 that any person or entity may initiate an administrative proceeding by submitting a Complaint in accordance with the Policy describing according to para (ix), sub para (iii) why the domain name(s) should be considered as having been registered and being used in bad faith.

4. The panel therefore came to the following conclusions:

a) The Complainant has clearly proven that it has long standing rights in the mark “DAFABET” and its variations. The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interest in respect of the disputed domain names and as the Respondent was never authorized to use the domain names by the Complainant. The Respondent, in the absence of any response, has not shown any facts or element to justify prior rights or legitimate interests in the disputed domain names. The Complainant has not licenced or otherwise permitted the Respondent to use Complainant´s marks in the disputed domain names. On the basis of evidence submitted and in the absence of Response the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

Domain names to be identical or confusingly similar

b) It is also clear and proven that there is a similarity between properly registered and used domain names and some trademarks of the Complainant and the disputed domain names as to the misspelling/typosquatting; phonetic similarity, optical similarity; conceptual/intellectual similarity. It is constantly decided not only in proceedings at this body bud also at WIPO that adding a letter, number, any figure is not enough to make a distinction to another original trade mark and/or domain name.

Respondent not having rights or legitimate interest with respect to the disputed domain name

c) It has to be stressed that it was proven by documents delivered by the Complainant and from the factual situation on the internet that there is no legitimate interest of the Respondent in the disputed domain names.

Domain name has been registered and is used in bad faith

d) It was proven that the Respondent has registered the disputed domain names only after the confusingly similar domain names and trademarks of the Complainant has been registered and properly used long time in business.

e) It is therefore clear that there is a high probability of a speculative behaving of the Respondent. On top of that it was not proven that the owner of the disputed domain name is active in business and therefore this based on the previous decision and practice of the arbitrators may lead to the conclusion that the use of the domain names is speculative by the Respondent.

f) From the IP law perspective it is clear that the similar confusing domain names were used by the Complainant for a long time before the disputed domain name was registered and used by the Respondent.

g) Therefore it has to be concluded that the Respondent has registered/acquired the disputed domain names primarily for the purpose of his own benefit when disrupting the business of the Complainant and therefore the Respondent is using the domain names in a bad faith. The domain names shall be transferred to the Complainant without a delay.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **2DAFABET.COM**: Transferred
2. **3DAFABET.COM**: Transferred
3. **4DAFABET.COM**: Transferred
4. **5DAFABET.COM**: Transferred
5. **6DAFABET.COM**: Transferred
6. **7DAFABET.COM**: Transferred
7. **8DAFABET.COM**: Transferred
8. **9DAFABET.COM**: Transferred
9. **BALLDAFABET.COM**: Transferred
10. **DF882.COM**: Transferred

## PANELLISTS

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| Name | **Vít Horáček** |

DATE OF PANEL DECISION 2015-12-21

Publish the Decision