Decision for dispute CAC-UDRP-101066

Case number	**CAC-UDRP-101066**
Time of filing	**2015-11-13 13:49:35**
Domain names	**dafa0808.com, dafa6969.com, dafa8989.com, dafa9998.com, dafa5558.com, dafa6668.com, dafa7778.com, dafa88vip.com, df0001.com, df8808.com, df8828.com, df8878.com, df88888.com, df8898.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**Emphasis Services Limited**

Respondent

Organization	**dai yushu**

OTHER LEGAL PROCEEDINGS

Paragraph 4(c) of the Supplemental Rules provides that: “Any proceeding(s) against a domain name holder with a later Time of Filing with respect to the same domain name(s) shall be suspended pending the outcome of the proceeding initiated by the Complaint with the earliest Time of Filing.”

In CAC Case No. 101068, the Complainant commenced proceedings against the Respondent regarding the domain name dafa88vip.com. By decision dated 16 November 2015, the domain name dafa88vip.com was transferred to the Complainant.

As a result the proceedings in respect of the domain name dafa88vip.com, which are referred to in the current Complaint (CAC Case No. 101066) have been terminated and the Panel makes no finding regarding that domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of:

(i) Hong Kong SAR trade mark registration no. 302048148 for “DAFA”, registered on 3 October 2011 in class 41.

(ii) Malaysia trade mark registration no. 2011019075 for “DAFA”, registered on 28 October 2011 in class 41.

(iii) CTM trade mark registration no. 012067138 for “DAFABET”, registered on 17 February 2014 in classes 38 and 41.

(iv) Philippines trade mark registration no. 42014505034 for “DAFABET”, registered on 24 October 2014 in classes 38 and 41.

FACTUAL BACKGROUND

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

The Complainant, Emphasis Service Limited, 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 13 years, used the name “DAFA” in varying combinations to designate its online gaming and betting offerings.

The Complainant has registered its rights over the brand “DAFA” in Malaysia and Hong Kong and has secured a CTM registration (under the name of its licensee Asian BGE (Isle of Man) Limited and is in the process of assignment to the Complainant) 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 Respondent registered the disputed domain names on 17 June 2014.

PARTIES CONTENTIONS

PARTIES' CONTENTIONS:

COMPLAINANT:
A. Identical or Confusingly Similar
The Complainant asserts that the domain names are confusingly similar to the Complainant's “DAFA” trade mark, to which the Respondent has merely added numbers. Further, regarding the domain names with the prefix “df”, the Complainant submits that there is a phonetic similarity with the Complainant's mark of "DAFA " in that the pronunciation of the trade mark is the same as the spoken "df", used in the domain names with the prefix “df”.

B. Rights or Legitimate Interests
The Complainant is the owner of the "DAFA" mark. The Complainant denies any direct connection with the Respondent and says that the Respondent’s use of the Complainant’s intellectual property in its domain name and website is unauthorized and illegal. The Respondent is unable to show prior usage, registration or any right to use the mark “DAFA” for its website and its use of the Complainant’s logos, images and content on its website amounts to blatant copying and cloning of the Complainant’s website in bad faith.

C. Bad Faith
The Complainant asserts that the Respondent’s illegal use of the Complainant’s intellectual property on its website is indicative of its intentions. By using the Complainant’s mark “DAFA” in the domain names, the Respondent is trying to make it appear that its websites are affiliated with the Complainant. As evidenced by the screenshots of the Respondent’s websites, it is not only using the Complainant's marks in the domain names, but it has copied the Complainant's website by illegally using the Complainant’s graphics, images, designs, content and logos. The Complainant asserts that this is a blatant to attempt to deceive the public in thinking that the Respondent is associated with the Complainant and so transact business with the Respondent.

The Complainant says that the Respondent is well aware that the Complainant is the owner of the trade marks “DAFA” and “DATABET” because of the Complainant's registrations in various jurisdictions; the goodwill and notoriety of the trade marks due to sponsorship with the English Premier League and the World Snooker Championship; and the Respondent’s illegal usage of Complainant’s logos, content, images and designs in its website. Any claim of Respondent to lack of knowledge over Complainant’s ownership over the name “Dafa” is negated by the fact that it has used the Complainant’s marks on its

website.

The Complainant says that the Respondent has been sent a cease and desist letter, but no reply was received and the Respondent has persisted in their illegal activities.

RESPONDENT:
NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

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

Paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements:

(i) The disputed domain names are identical or confusingly similar to a trade mark or service mark in which the Complaint has rights.
(ii) The Respondent has no rights or legitimate interests in the domain names.
(iii) The domain names have been registered and used in bad faith.

A. Rights
The Panel is satisfied that the Complainant is the owner of trade mark registrations for the mark “DAFA”.

It is well established that the generic top level suffix, .com may be disregarded when considering whether a disputed domain name is confusingly similar to a trade mark in which the Complainant has rights.

With regards to the disputed domain names: dafa0808.com; dafa6969.com; dafa8989.com; dafa9998.com; dafa5558.com; dafa6668.com; and dafa7778.com; the Respondent has simply incorporated the distinctive trade mark “DAFA” and has added numbers to it. In the circumstances the Panel finds that the disputed domain names: dafa0808.com; dafa6969.com; dafa8989.com; dafa9998.com; dafa5558.com; dafa6668.com; and dafa7778.com are confusingly similar to the Complainant’s trade mark “DAFA”.

With regards to the disputed domain names: df0001.com; df8808.com; df8828.com; df8878.com;df88888.com; and df8898.com the Respondent has used in the domain names the letters “d” and “f” that phonetically mimic to the Complainant’s “DAFA” trade mark and added numbers to them. The Panel finds that the disputed domain names df0001.com; df8808.com; df8828.com; df8878.com; df88888.com; and df8898.com are confusingly similar to a trade mark or service mark in which the Complainant has rights.

B. Lack of rights or legitimate interests.

The Panel finds that the Respondent does not have a legal right to use the name “DAFA” as part of the disputed domain names or in a domain name that is confusingly similar to the Complainant’s mark.

The Respondent is not connected with the Complainant, nor authorized to use the Complainant’s intellectual property rights for its operations in any capacity. Further, the Respondent’s use of the Complainant’s graphics, images, designs, content and logos, are indicative of Respondent’s intention to deceive users to think that the websites using the disputed domain names are affiliated with the Complainant.

The Respondent has not filed a Response and there is no evidence that the Respondent has used or has been preparing to use the disputed domain names in connection with a bona fide offering of goods or services, or for a legitimate non-commercial or fair use, without intent for commercial gain.

The Panel finds that the Respondent has no rights or legitimate interest in the disputed domain names.

C. Registration and use of the disputed domain names in bad faith.

The Complainant owns registrations for the trade mark “DAFA” and "DAFABET" in various jurisdictions. The marks are likely to be well known because of the Complainant’s sponsorship of the English Premier League and the World Snooker Championship.

By using letters that sound like the Complainant’ trade mark, the Respondent appears to be intentionally trying to deceive Internet users into believing that the disputed domain names with the prefix “df” are in some way connected to the Complainant.

Further, the Respondent’s unauthorised use of the Complainant’s logos, images and designs on its website, are indicative of the Respondent’s intention to make it appear that its websites are affiliated with the Complainant.

There appears no reason why the Respondent would register and use the disputed domain names that incorporate, or are confusingly similar to, the Complainant’s mark “DAFA”, other than to intentionally attempt to attract, for commercial gain, Internet users to the Respondent’s websites, by creating a likelihood of confusion with the Complainant's mark.

The Panel finds that the disputed domain names dafa0808.com; dafa6969.com; dafa8989.com; dafa9998.com; dafa5558.com; dafa6668.com; dafa7778.com; df0001.com; df8808.com; df8828.com; df8878.com;df88888.com; and df8898.com, have been registered and have been used by the Respondent in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **DAFA0808.COM**: Transferred
2. **DAFA6969.COM**: Transferred
3. **DAFA8989.COM**: Transferred
4. **DAFA9998.COM**: Transferred
5. **DAFA5558.COM**: Transferred
6. **DAFA6668.COM**: Transferred
7. **DAFA7778.COM**: Transferred
8. **DF0001.COM**: Transferred
9. **DF8808.COM**: Transferred
10. **DF8828.COM**: Transferred
11. **DF8878.COM**: Transferred

12. **DF88888.COM**: Transferred
13. **DF8898.COM**: Transferred

PANELLISTS

Name	**Mrs Veronica Bailey**

DATE OF PANEL DECISION 2016-01-12

Publish the Decision