

Decision for dispute CAC-UDRP-104823

Case number CAC-UDRP-104823

Time of filing 2022-09-01 10:19:06

Domain names star-stable-game.com

Case administrator

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

Complainant

Organization Star Stable Entertainment AB

Complainant representative

Organization SILKA AB

Respondent

Name Polyakov Andrey

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 is 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, including:

<u>TRADEMARK</u>	<u>TRADEMARK OFFICE</u>	<u>DATE OF REGISTRATION</u>	<u>TRADEMARK NO.</u>	<u>JURISDICTION</u>
STAR STABLE	USPTO	July 6, 2010	3814190	UNITED STATES
STAR STABLE	USPTO	January 13, 2015	13204128	UNITED STATES
Word and device	USPTO	September 21, 2015	14171326	UNITED STATES
STAR STABLE	EUIPO	008696775	05/04/2010	EU

STAR STABLE	EUIPO	013204128	13/01/2015	EU
Word and device	EUIPO	014171326	21/09/2015	EU

The 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).

FACTUAL BACKGROUND

According to the Complainant, the company was founded in 2011 in Stockholm, Sweden, and it is the maker of the popular adventure game Star Stable Online, "the currently #1 ranked and fastest-growing horse game in the world". Over the years the Complainant has extended its product line to music, publishing and several apps. The Complainant also operates an online shop webshop under <https://shop.starstable.com/> and organizes numerous live events. The Complainant has a significant presence on various social media platforms, such as Facebook, Youtube, Instagram, Google+ and Twitter.

The disputed domain name was registered on July 4, 2022 and the website that is operated under the domain name stating that it is a fan site: "A place to get together and talk about our favourite game. We're two Star Stable fanatics who love sharing our love for the game."

PARTIES CONTENTIONS

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that 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 that 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

1. The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has right

According to the Complainant, the disputed domain name incorporates in full the Complainant's trademark STAR STABLE. The addition of the associated term "game" and two hyphens does not distinguish the disputed domain name from the Complainant's STAR STABLE trademark. In fact, it rather enhances the impression that the disputed domain name is confusingly similar to the trademark of the Complainant. The generic Top-Level Domain extension, in this case ".com" is typically disregarded under the

confusing similarity test, as it is a standard requirement for registration.

Therefore, the Complainant concludes and the panel agrees that the disputed domain name is confusingly similar to the Complainant's trademark.

2. The Respondent has no rights or legitimate interests in respect of the disputed domain name

The Complainant states that the Respondent has no authorization or license to register a domain name incorporating the Complainant's trademark. The Respondent is not affiliated with the Complainant in any way, nor is the Respondent commonly known by the name "Star Stable". The legal entity displayed in the Whois records is GDPR masked. According to the Complainant, should the Respondent have any legitimate interest in the disputed domain name, it would most likely not have chosen to register the disputed domain name anonymously.

The Complainant further states that the Respondent is using the disputed domain name for a website that has the look and feel of the Complainant's website. The design and layout are nearly identical and the Respondent is using the Star Stable logo frequently on the site. There is no prominent disclaimer that this is a fan site. Only a short text under "about us" states that the owners of the web site are fans. No contact information about the owner(s) of the site is shown.

According to section 2.7.1 of the WIPO Overview 3.0 for purposes of assessing fair use under UDRP paragraph 4(c)(iii), a respondent's fan site must be active, genuinely noncommercial, and clearly distinct from any official complainant site. The Complainant asserts that there is no plausible fair use of the disputed domain name here, because the impression is created that the disputed domain name is somehow connected to the Complainant.

The Panel finds that the Complainant has shown that the Respondent has not made legitimate use of the disputed domain name for a bona fide offering of goods or services. In lack of 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.

3. The disputed domain name is registered and is being used in bad faith

The Complainant states that 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. The Complainant emphasized that a motive for using a domain privacy service in this instance has been to increase the difficulty for the Complainant to identify the Respondent, which does not reflect good faith.

The Complainant also states that the Respondent registered and uses the disputed domain name with the intention to attract Internet users to the website by creating a likelihood of confusion with the trademark of the Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith pursuant to paragraph 4(b)(iv) of the Policy.

In lack of any Response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has registered and used 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. star-stable-game.com: Transferred

PANELLISTS

Name	Tom Heremans
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DATE OF PANEL DECISION 2022-10-16

Publish the Decision
