

## Decision for dispute CAC-UDRP-105004

Case number **CAC-UDRP-105004**

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Time of filing **2022-12-02 12:56:05**

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Domain names **flashscorelive.com**

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### Case administrator

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

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### Complainant

Organization **Mgr. Martin Brandýs (Livesport s.r.o.)**

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### Respondent

Name **Chadi Bouslimi**

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### Respondent representative

Name **chadi bouslimi**

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#### OTHER LEGAL PROCEEDINGS

The Panel is unaware of any other pending or decided legal proceedings relating to the disputed Domain Name.

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#### IDENTIFICATION OF RIGHTS

The Complainant owns various trademarks including the following:

EU trademark 13093646 for "FLASHSCORE" registered on 31 December 2014.

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#### FACTUAL BACKGROUND

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

The Complainant owns the domain name <flashscore.com> and similar domain names under various country top level domains (e.g. <flashscore.fr>, <flashscore.dk>, <flashscore.de>, <flashscore.es>).

To add context, the Complainant's websites are operated under contractual relationship by our subsidiary company Livesport Media Ltd, which is (based on our contractual relationship) stated in domain name registry as contact person for Livesport s.r.o.

The "FlashScore" (also may be presented in capitals FLASHSCORE) is well-known worldwide brand for online sports results, statistics and information about sports presented on internet, Google Play Store, App Store, Huawei Store and other smaller stores. The "FlashScore" network was established in 2006 and now covers more than 6,200 competitions from all over the world, and brings all

important moments from over 700,000 sports events every year. The "FlashScore" network in 2021 reached 100 million visits per month.

The dispute Domain Name was registered on July 21, 2022.

## **PARTIES CONTENTIONS**

### COMPLAINANT:

#### 1. THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO COMPLAINANT'S TRADEMARK

The Respondent in the website resolving from the disputed Domain Name, presents himself under name Flash Score Live, which includes our trademark name (FlashScore - without divider) and which includes generic term "Live", which relates to live sport results (core of our business e.g. <https://www.flashscore.com/>).

According to Complainant's conclusion the name Flash Score Live is not capable to sufficiently distinguish operated website nor the disputed Domain Name itself, which includes Complainant's trademark (without capital letters and without divider) and generic word "live" which is identical with the nature of Complainant's service - live sport service.

#### 2. RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTEREST IN RESPECT OF THE DISPUTED DOMAIN NAME

The Respondent does not have any rights or legitimate interest in the disputed Domain Name, the Complainant has not provided any licence nor other contract to the Respondent.

The Respondent uses the disputed Domain Name for the same purposes as the Complainant - sport results and statistics.

#### 3. THE DISPUTED DOMAIN NAME WAS REGISTERED AND IS BEING USED IN BAD FAITH

The Respondent uses the disputed Domain Name for football sport result services, which directly competes with our services. Moreover, the disputed Domain Name is unfairly parasiting on our trademark and websites under FlashScore brand (eg. [flashscore.com](https://www.flashscore.com)) with the goal of creating commercial gain by creating a likelihood of confusion with the services of Complainant.

### RESPONDENT

The Respondent provided following statement to the complaint:

"Hello ladies and gentlemen

It's surprising, I didn't expect this to happen

I found a publicly available domain name and bought it

What's wrong with that

It is all in good faith

And the evidence is

My site is non-profit because it does not contain ads

Madam Judge, Mr. Judge

Thanks for informing me about it

I am really shocked about it, because months of effort can be wasted

I also lost money and effort

Thank you for your understanding, and I am ready for your judgment, even if it means stopping my site from working"

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### RIGHTS

To the satisfaction of the Panel, the Complainant has shown that the disputed Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

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#### NO RIGHTS OR LEGITIMATE INTERESTS

To the satisfaction of the Panel, the Complainant has 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).

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#### BAD FAITH

To the satisfaction of the Panel, the Complainant has 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).

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#### PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP have been met. There is no other reason why it would be unsuitable for providing the Decision.

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#### PRINCIPAL REASONS FOR THE DECISION

##### 1. Identical or Confusingly Similar

First, the Panel is satisfied that the Complainant has shown it owns rights to the "FLASHSCORE" trademark, since at least 31 December 2014.

Turning to analyze if there is a confusing similarity between the disputed Domain Name and the trademark, the Panel notes, based on the record at hand, that the disputed Domain Name reproduces the trademark in its totality, namely "FLASHSCORE", with one exception. This exception relates to the addition of the term "LIVE".

The Panel notes that the addition of the term "LIVE" is immaterial enough to dispel a finding of confusing similarity between the disputed Domain Name and the Complainant's trademarks. In addition, the term "LIVE", appears to refer to the business model of the Complainant, which could arguably enhance the confusing similarity between the Complainant's trademark and the disputed Domain Name, however, further analysis on this will be provided under the second and third elements below. Accordingly, the Panel will refer to this under the relevant elements set out below.

Consequently, the Panel determines that the Complaint has satisfied the first element set under paragraph 4(a)(i) of the Policy.

##### 2. Rights or Legitimate Interests

Although the Complaint is sparse, the Complainant makes broadly the following assertions, based on the evidence, record at hand and balance of probability: a) the Respondent is not affiliated with the Complainant; b) the Respondent is not authorized to carry out any activity for the Complainant and has no business dealings with the Complainant; c) the Respondent is not commonly known by the disputed domain name; d) the Respondent has no license or authorization to use the trademarks and e) the Respondent is using the disputed Domain Name to divert consumers and tarnish the Complainant's trademark.

These are enough to establish the requisite prima facie case. Accordingly, as the Complainant has established a prima facie case, the burden of production shifts to the Respondent to bring forward evidence of rights or legitimate interests in the disputed Domain Name.

Based on the evidence on record and acknowledging that the Respondent also provided little to no evidence aside from some general assertions broadly emphasizing the not-for-profit use of the disputed Domain Name, the Panel must analyze the record at hand holistically.

The Respondent's use of the trademark plus the use of a term that appears to refer to the business model of the Complainant, namely "LIVE", seems to indicate that the Respondent not only was aware of the Complainant but deliberately targeted the Complainant to benefit from the association to the Complainant and confuse Internet users as to the source of sponsorship. A practice like this can never be considered a bona fide offering under the Policy.

Based on the facts and analysis above, in addition to the Respondent's failure to provide sufficient evidence beyond allegations showing rights or legitimate interests in the disputed Domain Name, the Panel finds that the Complainant has established that the Respondent lacks any rights or legitimate interests in the disputed Domain Name under paragraph 4(a)(ii) of the Policy.

##### 3. Registered and Used in Bad Faith

As per the record and evidence, the Panel finds that the Respondent was likely aware of the Complainant and had the Complainant's trademark in mind when registering the disputed Domain Name. This conclusion is reinforced by the fact that the Respondent seems to

evoke a connection to the Complainant's trademark by including the trademark in its entirety, with the addition of a term, namely "LIVE", which is associated with the business model of the Complainant.

All the preceding analysis leaves the Panel no other option than to conclude that the most likely intention of the Respondent was to intentionally attempt to attract, for commercial gain, Internet users to its website/disputed domain name, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website and/or disputed domain name, as per illustrated under paragraph 3.1 of WIPO 3.0 Overview.

In light of the case's circumstances, based on the available records, the Panel finds that the Complainant has proven that the disputed domain name was registered and is used in bad faith according to paragraph 4(a)(iii) of the Policy.

#### 4. Decision

For the preceding reasons and in concurrence with the provisions specified under Paragraph 4(i) of the Policy and Paragraph 15 of the Rules, the Panel orders the transfer of the disputed Domain Name to the Complainant.

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FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **flashscorelive.com**: Transferred

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## PANELLISTS

Name	<b>Rodolfo Rivas Rea</b>
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DATE OF PANEL DECISION	2023-01-03
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Publish the Decision

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