

Decision for dispute CAC-UDRP-105166

Case number	CAC-UDRP-105166
Time of filing	2023-02-03 09:21:23
Domain names	bwinph.com, phbwin.com

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	Entain Operations Limited
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Complainant representative

Organization	Stobbs IP
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Respondent

Organization	Domains by Proxy, LLC
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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 has evidenced to be the owner of numerous trademark registrations worldwide relating to its brand BWIN, including, but not limited, to the following:

- Word mark BWIN, European Union Intellectual Property Office (EUIPO), registration No.: 007577281, registration date: January 18, 2010, status: active;

- Word mark BWIN, International Trademark/World Intellectual Property Organization (WIPO), registration No.: 886220, registration date: February 3, 2006, status: active.

Also, the Complainant has substantiated to enjoy, through the BWIN group of companies, rights in numerous domain names relating to its BWIN trademark, *inter alia*, since 2005 in the domain name <bwin.com> which redirects to the Complainant's main website at "www.bwin.com", used to promote the Complainant's services and related products in the online gaming industry.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT 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 Panel finds that the disputed domain names <bwinph.com> as well as <phbwin.com> are confusingly similar to the Complainant's BWIN trademark, as they both incorporate the BWIN trademark in its entirety, simply added by the term "ph" (as a prefix or as a suffix, respectively). Numerous UDRP panels have recognized that incorporating a trademark in its entirety can be sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark. Moreover, it has also been held in many UDRP decisions and has meanwhile become a consensus view among UDRP panels that the mere addition of descriptive or other terms, such as e.g. the term "ph", is not capable to dispel the confusing similarity arising from such entire incorporation of the Complainant's BWIN trademark in the disputed domain names.

Therefore, the Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

Also, the Complainant contends, and the Respondent has not objected to these contentions, that the Respondent has neither made use of, or demonstrable preparations to use, the disputed domain names in connection with a *bona fide* offering of goods or services, nor is the Respondent commonly known under the disputed domain names, nor is the Respondent making a legitimate non-commercial or fair use of the disputed domain names without intent for commercial gain. On the contrary, the Complainant has provided evidence that at least on January 26, 2023, the disputed domain names both resolved to look-a-like websites at "www.bwinph.com" and "www.phbwin.com", respectively, that offered online gaming services, thereby prominently displaying the Complainant's official BWIN logo with no authorization to do so. Such making use of the disputed domain names, obviously in a fraudulent manner, neither qualifies as a *bona fide* nor as a legitimate non-commercial or fair use under the UDRP and may not of itself confer rights or legitimate interests in the disputed domain names.

Accordingly, the Panel finds that the Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

Finally, the Panel holds that the disputed domain names were registered and are being used by the Respondent in bad faith. It is obvious from the circumstances to this case that the Respondent was well aware of the Complainant's rights in the BWIN trademark when registering the disputed domain names, and that both disputed domain names are directly targeting such trademark. Moreover, carrying out unlawful (or at least unauthorized) activities under the disputed domain names, which are confusingly similar to the Complainant's BWIN trademark, by displaying on the Internet the Complainant's official BWIN logo in the context of online gaming services with no authorization to do so, leaves no doubts that the Respondent, by registering and making use of these disputed domain names, had the intention to somehow unjustifiably profit from the undisputed reputation attached to the Complainant's BWIN trademark, and, thus, the Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's BWIN trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website. Such circumstances are evidence of registration and use of the disputed domain names in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

Therefore, the Complainant has also satisfied the third element under the Policy as set forth by 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. **bwinph.com**: Transferred
 2. **phbwin.com**: Transferred
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PANELLISTS

Name	Stephanie Hartung
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DATE OF PANEL DECISION 2023-03-30

Publish the Decision
