

Decision for dispute CAC-UDRP-105523

Case number CAC-UDRP-105523

Time of filing 2023-06-29 09:54:59

Domain names softbankinvestltd.com

Case administrator

Name Olga Dvořáková (Case admin)

Complainant

Organization SoftBank Group Corp.

Complainant representative

Organization CSC Digital Brand Services Group AB (c/o Paddy Tam)

Respondent

Name Idris Halya

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 several "SOFTBANK" trademarks in various countries, including but not limited to:

- SOFTBANK (US Reg. No. 2542547) registered on February 26, 2002;
- SOFTBANK (JP Reg. No. 1858515) registered on April 23, 1986;
- SOFTBANK (JP Reg. No. 4476883) registered on May 25, 2001;
- SOFTBANK (EU Reg. No. 002070225) registered on December 19, 2002;
- SOFTBANK & Design (WIPO Reg. No. 861654) registered on June 7, 2005.

The trademarks mainly protect financial services.

The Complainant owns, inter alia, the domain name <SOFTBANK.JP> registered on March 26, 2001, which points to its primarily used website, and the domain name <SOFTBANK.COM>, registered on April 1, 1991. The Complainant also uses the trademark "SOFTBANK" for its services and as a company name.

FACTUAL BACKGROUND

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

The Complainant is a Japanese multinational conglomerate holding company established in 1981 which operates under the name "SoftBank". According to the Forbes ranking "The World's Largest Public Companies" it is the second largest publicly traded company in Japan. The Complainant is the parent company of a global portfolio of subsidiaries and affiliates, involved in investment activities, advanced telecommunications, internet services, Internet of Things, robotics and clean energy technology providers. It is also an internationally renowned company for its active investments in internet related field on a global scale ("the Businesses") and has 1,316 subsidiaries as well as 59,721 employees.

The Complainant maintains a strong internet presence through its primary website found at <<http://softbank.jp/>> with an average of 41.51 million visits during the six-month period between July and December 2021. It also operates an additional website at <<https://group.softbank/>>.

The disputed domain name has been registered with the Respondent on May 19, 2021. The Respondent was using a privacy WHOIS service. The disputed domain name points to a website which uses "SoftBank Capital Fund" as its business name and includes the copyright notice "Copyright by Softbank Invest 2021" at the bottom of the website.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

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

As the Respondent did not file an administratively compliant Response, pursuant to paragraph 14(b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate. Thus, the Panel accepts the contentions of the Complainant as admitted by the Respondent.

1. The disputed domain name is confusingly similar to the trademark "SOFTBANK" of the Complainant.

The Complainant has, to the satisfaction of the Panel, shown that it has valid rights for the trademark "SOFTBANK".

The disputed domain name includes the Complainant's trademark in its entirety. The Complainant's trademark is being used as the dominant element in the disputed domain name. Neither the addition of the generic terms "invest" and "Ltd" nor adding the gTLD ".COM" are sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademark. Especially since the Complainant also operates in the area of investment activities and the holding structure consists of many related, similar named companies, the added terms only strengthen the overall impression of the designation as being connected to the trademark of the Complainant.

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

The Complainant has established a prima facie proof that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to use its trademark in a domain name. Further, the Respondent is not sponsored by or affiliated with Complainant in any way.

Also, the domain name at stake does not correspond to the name of the Respondent and the Respondent is not commonly known as "SOFTBANK".

The disputed domain name points to a website which includes a similar layout as the website of the Complainant with the trademark name and logo being placed small on top of the left side in the beginning of the page and the copyright notice "Softbank Invest 2021" at the website's bottom. In addition, the Respondent's website shows the address of one of the Complainant's affiliated companies "SOFTBANK CAPITAL FUND '14 L.P." as its "registered office address" and also uses "SoftBank Capital Fund" as its business name. Therefore, the resemblance of the domain name website is misleading and creates a false impression of affiliation between the Complainant and the Respondent. There is also no disclaimer as to the Respondent's lack of relationship with the Complainant.

Moreover, the use of the disputed domain name cannot be considered legitimate non-commercial or fair use without intent for commercial gain, since the Complainant has, to the satisfaction of the Panel, shown that the Respondent tries to take advantage of the Complainant's reputation by creating the impression of being related to the Complainant in order to lead unsuspecting visitors into divulging their personal information via the provided pages for new users to register or registered users to access to the website. These circumstances indicate that the Respondent lacks rights and legitimate interests in the disputed domain name.

Summarised, there is no evidence for a use of the disputed domain name for any bona fide offer of goods or services or a legitimate non-commercial or fair use.

3. The disputed domain name has been registered and is being used in bad faith within the meaning of the Policy.

The Complainant's trademark "SOFTBANK" is widely known in several countries all over the world. The Complainant also operates

using this trademark in the US, where the Respondent has its postal address. The timing of the registration of the disputed domain name indicates the Respondent's bad faith in registering such domain name, as, at that time, the Complainant's trademark "SOFTBANK" was already protected for decades in several countries. Hence, it seems very plausible, that the Respondent knew the trademark of the Complainant at the time of registration. Given the distinctiveness of the Complainant's trademark and reputation, especially but not limited to investment activities, it can be concluded that the Respondent has registered the disputed domain name with full knowledge of the Complainant's trademark.

Also, the circumstance that the Respondent employed a privacy protection service to conceal its identity is an indication of the Respondent's bad faith.

Furthermore, the use of a similar website indicates that the Respondent has registered and is using the disputed domain name to attract and divert internet users interested in the Complainant's services to its own website. It seems very likely that the purpose in registering the disputed domain name was to capitalize on the reputation of the "SOFTBANK" trademark and to obtain visitors' personal information for - possibly - phishing purposes by providing pages for registration or access. It follows that the Respondent attempts to attract internet users by creating a likelihood of confusion with the Complainant's trademark. Such likelihood of confusion as well as using the disputed domain name for illegal activities are evidence of bad faith registration and use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **softbankinvestltd.com**: Transferred

PANELLISTS

Name	Dominik Eickemeier
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DATE OF PANEL DECISION 2023-08-11

Publish the Decision
