

Decision for dispute CAC-UDRP-105695

Case number CAC-UDRP-105695

Time of filing 2023-08-11 09:21:14

Domain names bwinpt.com

Case administrator

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

Complainant

Organization Entain Operations Limited

Complainant representative

Organization Stobbs IP

Respondent

Name Hao Li

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 owns several registered trademarks, in many jurisdictions, consisting of BWIN.

In addition, the domain name <bwin.com> was registered as early as 22 August 2005. The Complainant also owns several other domain names that incorporate the BWIN trademark.

FACTUAL BACKGROUND

The Complainant is an international sports-betting and gaming group, operating both online and in the retail sector. The Complainant employs a workforce of over 24,000 individuals in 20 offices across 5 continents. The Complainant owns a comprehensive portfolio of established brands. Sports brands include Bwin, Coral, Crystalbet, Eurobet, Ladbrokes, Neds International and Sportingbet. Games brands include CasinoClub, Foxy Bingo, Gala, Gioco Digitale, PartyPoker and PartyCasino.

The Complainant has traded on the Alternative Investment Market (AIM) of the London Stock Exchange (LSE) since 24 May 2010 and as of 7 August 2023, has a market capitalisation value (the market value of a company's outstanding shares) of £8.92 billion.

The United Kingdom is the Complainant's core market and accounts for a significant portion of sales, with other key markets being the United States, Germany and Italy, according to the Complaint. The Complainant states that his BWIN brand has a significant

reputation and has built up a vast amount of goodwill in the UK sign concerning a wide range of goods and services. The Complainant received significant endorsement for their BWIN brand on social media.

The Respondent registered the disputed domain name <bwinpt.com> on 2 August 2022 ("the disputed domain name"). The disputed domain name resolves to a pornographic website, having nothing to do with BWIN online betting services.

No administratively compliant Response has been filed.

PARTIES CONTENTIONS

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

1. The disputed domain name is confusingly similar to the Complainant's trademarks

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks. The disputed domain name fully incorporates the Complainant's BWIN trademarks, albeit with the addition of the letters "pt" at the end.

The Complainant rightfully contends that the addition of the letters "pt" is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's trademarks.

The Panel does not take the TLD suffix .COM into account when making an assessment of the disputed domain name, as this is merely a technical requirement, used for domain name registrations and is to be disregarded under the confusing similarity test.

The Panel concludes that the disputed domain name is confusingly similar to a trademark or service mark in which the Complainant has rights.

2. 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

The Complainant submits that the Respondent does not have any rights or legitimate interests in the disputed domain name within the meaning of Paragraph 4(a)(ii) of the Policy. The Complainant acknowledges that the Respondent may demonstrate a right or legitimate interest in the disputed domain name if it can be established that:

- The Respondent's use of the disputed domain name or a name corresponding to the domain name is in connection with a bona fide offering of goods or services;

- The Respondent has been commonly known by the disputed domain name, even if it has acquired no trademark or service mark rights; or
- The Respondent is making legitimate non-commercial or fair use of the disputed domain name, without intent or commercial gain to misleadingly divert consumers.

Bearing in mind the considerable reputation of the BWIN brand and the Complainant's operations in the online betting industry for twenty years, there is no valid reason for registration or use of the disputed domain name other than to take advantage of the Complainant's reputation. The disputed domain name was registered as recently as the 2 August 2022, by which time the Complainant already had extensive rights in the BWIN brand dating back over fifteen years ago.

The Complainant submits that the disputed domain name at present resolves to a webpage displaying pornographic material. This circumstance is sufficient to establish prima facie that the Respondent's use of the disputed domain name is not in connection with a bona fide offering of goods or services.

The Complainant submits that to the best of their knowledge, the Respondent has never been known as BWIN at any point in time. This is not being disputed by the Respondent.

In light of the above, the Respondent does not satisfy any of the above-mentioned grounds under Paragraph 4(c) of the Policy.

3. The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name was registered and is being used in bad faith

The Complainant contends that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its web site or location or of a product or service on its web site or location, within the meaning of Paragraph 4(b)(iv) of the Policy.

The Respondent registered the disputed domain name on 20 August 2022, by which time the distinctive character and reputation of the Complainant's BWIN trademark was well established (cf. above).

The disputed domain name resolves to a pornographic website, having nothing to do with the Complainant or its services. The Complainant contends that the Respondent registered and is using the disputed domain name to gain and capitalise on the distinctiveness, recognisability, online presence and searchability of the BWIN trademarks, to attract and promote explicit adult material.

The failure of the Respondent to present a credible evidence-backed rationale for registering and using the disputed domain name, shows that the Respondent has registered and is using the disputed domain name in bad faith.

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. **bwinpt.com**: Transferred

PANELLISTS

Name	Tom Heremans
------	--------------

DATE OF PANEL DECISION 2023-09-19

Publish the Decision
