

Decision for dispute CAC-UDRP-105906

Case number	CAC-UDRP-105906
Time of filing	2023-10-23 10:04:50
Domain names	napthehonkaistarrail.com

Case administrator

Name	Olga Dvořáková (Case admin)
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Complainant

Organization	miHoYo Co., Ltd.
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Complainant representative

Organization	Zacco Sweden AB
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Respondent

Name	Vo Tan Giau
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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 name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner, among others, of the following trademark registrations for "Honkai: Star Rail":

- a) US Registration no. 6818408 filed on July 13, 2021 and registered on August 16, 2022 (cl. 9).
- b) Chinese Registration no. 57548314 filed on July 8, 2021 and registered on January 7, 2022 (cl.9).
- c) Singapore Registration no. 40202116606U filed on July 13, 2021 and registered on January 6, 2022 (cl.9).
- d) International Registration no. 1756788 registered on July 21, 2023 (cl. 9, 16, 20, 25, 26, 28, 35, 38, 41 and 42) and designating different countries, including Singapore where is located the Respondent's residence.

FACTUAL BACKGROUND

The Complainant is a Chinese video game development and publishing company which was founded in 2011 and today has around 5000 employees. In addition to game products such as Genshin Impact, Honkai Impact 3rd, Tears of Themis, and Honkai: Star Rail, the Complainant also launched the dynamic desktop software NOva Desktop and created a variety of products such as animations,

comics, music, novels, and merchandise around its original creative concepts. The Complainant is committed to research and development, exploring cutting-edge technologies and accumulating world-leading technical capabilities in cartoon rendering, artificial intelligence, cloud gaming technology, and other fields. The Complainant is also, among others, the distributor of the Honkai series, which consists of several games, including Honkai Impact 3rd and Honkai: Star Rail. The Honkai: Star Rail entry has received substantial attention in the media.

The Complainant claims that the domain name in dispute is confusingly similar to the "Honkai: Star Rail" trademark in which the Complainant has rights since the Complainant's mark "Honkai: Star Rail" is included in its entirety in the contested domain name being simply combined with the Vietnamese terms "nạp thẻ", roughly meaning "recharge card".

In addition, the Complainant outlines that there is no information indicating that the Respondent is known for or trades under a name corresponding to the domain name in dispute. Again, the Complainant informs that the Respondent is not an authorized dealer of the Complainant's products or services and has never had a business relationship with the Complainant. In particular, according to the Complainant, no license or authorization of any other kind has been given by the Complainant to the Respondent to use the "Honkai: Star Rail" trademark.

The Complainant notes that the disputed domain name was registered by the Respondent on February 15 2023 and, therefore, subsequently to the registration of the Complainant trademarks in many countries, including China and USA. The Complainant believes that the fame and value of the "Honkai: Star Rail" trademark have motivated the Respondent to register the domain name in dispute and the fact that said domain name refers to a website partly copying the Complainant's own website makes it obvious, in the Complainant's view, that the Respondent was fully aware of the Complainant and its trademark at the time of the disputed domain name's registration. Furthermore, it is the Complainant's view that the Respondent is using the disputed domain name in bad faith since the Respondent has clearly chosen the domain name in dispute in order to generate traffic and income through a website displaying similar content compared to the Complainant's own website, including use of the Complainant's logotype, name, design and corporate colours. According to the Complainant, the Respondent has prominently included the Complainant's logotype, images and design on the main page of the website corresponding to the domain name in dispute in order to create the impression that the contested domain name is somehow connected to the Complainant. Consequently, it is the Complainant's view that the Respondent, by using the domain name in dispute, has intentionally attempted to attract, for commercial gain, Internet users to its own web site, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site.

PARTIES CONTENTIONS

The Respondent in its response has simply shown its availability to transfer the domain name in dispute. No substantial arguments have been introduced in the proceedings by the Respondent.

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

Paragraph 4(a) of the Policy provides that to obtain the transfer of the disputed domain name, the Complainant must prove that each of the following elements is present:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

1) The Complainant, under the first requirement of paragraph 4(a) of the Policy, needs to establish that the disputed domain name is confusingly similar to a trademark or a service mark in which it has rights. The Complainant owns several trademark rights over the sign "Honkai: Star Rail". The Panel finds that it is confusingly similar to the disputed domain name, as the trademark is entirely included in it (without the two points symbol for mere and obvious technical reasons). As stated by the Complainant the additional element, the combination of Vietnamese terms "Nap The", does not prevent a finding of confusing similarity under the first element because the Complainant's "Honkai: Star Rail" trademark is clearly recognizable within the disputed domain name (see GrabTaxi Holdings Pte. Ltd. v. Ngo Trong Nghia WIPO Case No. D2023-3021 related to the domain name <datgrabbinhduonglientinh.com> according to which the additional element consisting in a combination of Vietnamese terms does not avoid a finding of confusing similarity between the trademark and the contested domain name). Finally, in accordance with the consensus view of past UDRP panels, the Panel finds that the Top-Level domain (".COM" in this case) is not sufficient to exclude the likelihood of confusion since it is a mere technical requirement included in all domain names. The Complainant therefore succeeds on the first element of the Policy.

2) The Complainant provided prima facie evidence that the Respondent does not have rights or legitimate interests in respect of the disputed domain name as it is not commonly known under the disputed domain name and was never authorized to use it by the Complainant. The Respondent, in the absence of any substantial response, has not shown any fact or element to justify prior rights or legitimate interests in the disputed domain name. The Complainant therefore succeeds also on the second element of the Policy.

3) The Respondent registered the disputed domain after the use and registration of the "Honkai: Star Rail" mark by the Complainant. The Complainant has proved that its trademark has been intensively used and has received substantial attention in the media. In consideration of the high level of recognizability achieved by "Honkai: Star Rail" it is clear that the Respondent was surely aware of the Complainant trademark when he registered the domain names in dispute. Moreover, the Respondent appears to have attempted to benefit commercially from the appropriation of the "Honkai: Star Rail" mark in the disputed domain names. The use of the mark "Honkai: Star Rail", well known in the market of video games and cartoons, for showing and offering video games and cartoons products, clearly indicates that the disputed domain name was chosen by the Respondent to take advantage of the Complainant's mark reputation. This finding leads to the obvious conclusion that the disputed domain names have been registered in bad faith (Research In Motion Limited v. Privacy Locked LLC/Nat Collicot - WIPO Case No. D2009-0320; The Gap, Inc. v. Deng Youqian - WIPO Case No. D2009-0113; AXA S.A. v. P.A. van der Wees - WIPO Case No. D2009-0206; BHP Billiton Innovation v. Ravindra Bala - WIPO Case No. D2008-1059). The Panel also finds that, by linking the disputed domain name to a website showing and offering alleged "Honkai: Star Rail" products, the Respondent has intentionally attempted to attract Internet users to its website for commercial gain, by causing a likelihood of confusion with the trademark "Honkai: Star Rail" as to the source, sponsorship, affiliation or endorsement of its websites and the products promoted therein. The conduct described above clearly falls within paragraph 4(b)(iv) of the Policy (Triumph International Vietnam Ltd v. Tran Quoc Huy - WIPO Case No. D2017-0340). In consideration of the above, the Panel concludes that the Respondent registered and is using the disputed domain names in bad faith. The Complainant therefore succeeds also on the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. napthehonkaistarrail.com: Transferred

PANELLISTS

Name	Guido Maffei
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DATE OF PANEL DECISION 2023-11-03

Publish the Decision
