Decision for dispute CAC-UDRP-106235

Case number	CAC-UDRP-106235
Time of filing	2024-02-08 09:29:15
Domain names	sportingbet-br.com

Case administrator

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

Complainant

Organization	Entain Operations, Ltd.

Complainant representative

Organization	Stobbs IP

Respondent

Name	Adam Igoss

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 various trade mark registrations for SPORTINGBET including UK word mark registration 00002642443 registered on March 29, 2013 and Brazilian combined logo and word mark Registration 901198730 registered on July 12, 2011. It also owns numerous domain name registrations that incorporate its SPORTINGBET mark including <sportingbet.com> which was registered on September 4, 1997.

FACTUAL BACKGROUND

The Complainant is a subsidiary of international sports betting and gaming group Entain plc which has traded on the London Stock exchange since 2010. The Entain plc group had a market value in February 2024 of £6.1 billion and it operates in the United Kingdom, the European Union and Australia. The Complainant's domain name <sportingbet.com> resolves to the official Sportingbet website on which customers may make bets on a wide range of sporting fixtures.

The disputed domain name was registered on September 8, 2022 by the Toronto based Respondent. It resolves to a website which features the SPORTINGBET trade mark and a logo that incorporates the SPORTINGBET mark in a near identical font and red and blue colour scheme to that featured in the Complainant’s logo. The website appears to be targeted at Brazilian users and is in the Portuguese language and offers its customers the opportunity to make online bets on sporting fixtures.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

Complainant's Contentions

The Complainant submits that the disputed domain name includes the Complainant's SPORTINGBET trade mark in its entirety and is therefore confusingly similar to the disputed domain name. The inclusion of a hyphen and the term "br", which the Complainant submits is an abbreviation for Brazil, does not prevent a likelihood of confusion according to the Complainant.

The Complainant says that the Respondent is not affiliated with it in any way and has not been authorised or licensed by the Complainant to use and register its trade mark or to seek registration of any domain name incorporating the trade mark or any similar sign and is not commonly known by the disputed domain name. The Complainant says that the Respondent has not demonstrated use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

It says that the disputed domain name resolves to an active website offering services relating to online sports betting and gaming under a highly similar sign to the Complainant's SPORTINGBET mark and logo and that the website contains statements in Portuguese which infer affiliation with the Complainant's SPORTINGBET business, such as "Sportingbet – Apostas Esportivas Online no Brasil [Sportingbet - Online Sports Betting in Brazil]". The website invites users to collect introductory offers and to register to interact with the websites services and redirects users to an unaffiliated website, https://1wxfar.top/ with unconfirmed regulatory authorisation to operate gambling services.

The Complainant submits that the website at the disputed domain name overlaps with its core service offering and uses a logo that it very similar to its red and blue SPORTINGBET logo and that the Respondent more than likely set up the disputed domain name to impersonate the Complainant and to drive traffic to its website. The Complainant says that it cannot be inferred that the Respondent is making a legitimate non-commercial, or fair use of the disputed domain name in circumstances that he is seeking to create an impression of association with the Complainant.

In terms of bad faith, the Complainant says that the trading and commercial activities of its group's business significantly pre-date the registration of the disputed domain name on September 8, 2022. It says that its Sportingbet business is widely recognised as a result of worldwide news commentary, social media activity and publicised endorsements and that an online search by the Respondent prior to the registration of the disputed domain name, would have revealed the Complainant's mark and business. In summary it says that there is no plausible reason that the Respondent could have had for registering the disputed domain name.

The Complainant submits that the Respondent has registered and used the disputed domain name in bad faith in accordance with paragraph 4(b)(iv) of the Policy. It says that the Complainant registered the disputed domain name with full knowledge and sought to target the Respondent's mark and that the elements of paragraph 4(b) (iv) are fulfilled.

In addition, the Complainant says that the disputed domain name was registered primarily for the purpose of disrupting the business of a competitor in terms of paragraph 4(b) (iii) of the Policy because it was registered with the sole purpose of creating an association with the Complainant which is objectively disruptive to the Complainant's business.

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

The Complainant has demonstrated that it owns registered trade mark rights for its SPORTINGBET mark, namely United Kingdom trade mark registration 00002642443 registered on March 29, 2013. The disputed domain name wholly incorporates the SPORTINGBET trade mark which is the dominant and distinctive element and the disputed domain name is therefore confusingly similar to the Complainant's registered trade mark right. The inclusion of a hyphen and the abbreviation "br", which the Panel infers to mean the country of Brazil, does not prevent a finding of confusing similarity. Accordingly, the Complaint succeeds under the first element of the Policy.

The Complainant has submitted that the Respondent is not affiliated with it in any way and that the Respondent has not been authorised or licensed by the Complainant to use and register its trade mark. The Complainant has also submitted that the Respondent is not commonly known by the disputed domain name and has not demonstrated the use of, or demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services.

In this regard the Complainant has noted that the disputed domain name resolves to an active website, displaying a homepage that includes the SPORTINGBET mark and a very similar logo to the Complainant's logo. The website at the disputed domain name appears to promote or to facilitate sports betting services that are very similar to those provide by the Complainant from its <sportingbet.com> website. Certainly, it appears to the Panel as if the Respondent is attempting to present the website at the disputed domain name as if it belongs to, or has some affiliation with, the Complainant when that is not the case. This is not consistent with a bona fide offering of goods or services, or with the Respondent making a legitimate non-commercial, or fair use of the disputed domain name.

The Panel finds that the Complainant has made out a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name. As the Complainant's case has not been rebutted by the Respondent, the Panel finds for these reasons and as set out under Part C below, that the Complainant has successfully made out its case and that the Complaint also succeeds under the second element of the Policy.

The disputed domain name was registered in September 2022, many years after the Complainant registered its SPORTINGBET trade mark. The Complainant's mark appears to enjoy a substantial reputation amongst the on-line sport betting public in various countries and the Complainant's Sportingbet business has a substantial on-line presence. The disputed domain name wholly incorporates the Complainant's mark together with the "br" abbreviation for Brazil and resolves to a website that contains a logo very similar to the Complainant's and it features a get-up colour scheme very similar to the Complainant's website. In these circumstances the Panel finds that there is a very strong inference that the Respondent was well aware of the Complainant's SPORTINGBET mark when it registered the disputed domain name.

Under paragraph 4(b)(iv) of the Policy there is evidence of registration and use of the disputed domain name in bad faith where a Respondent has used the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trade marks as to the source, sponsorship, affiliation or endorsement of the website.

The Respondent in this case has used the disputed domain name containing the Complainant's SPORTINGBET trade mark to confuse Internet users and to re-direct them to what appears to be a Brazilian targeted website in the Portuguese language. Internet users arriving at the website who are seeking the Complainant's business are likely to be confused into thinking that the website is affiliated with the Complainant's business, or is endorsed by the Complainant, as it uses the Complainant's trade mark and features a get-up very similar to the Complainant's website. The Respondent's website then has a link which diverts internet users to a website that, according to the Complainant, offers them the possibility of placing bets on sporting fixtures. The use of the disputed domain name in this way is obviously for the Respondent's commercial gain and is evidence of registration and use in bad faith under paragraph 4(b)(iv) of the Policy.

Based on these findings it is not necessary for the Panel to make a finding under paragraph 4(b) (iii) of the Policy.

Accordingly, the Panel finds that the disputed domain name was registered and has been used in bad faith and that the Complaint also succeeds under this 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. **sportingbet-br.com**: Transferred

PANELLISTS

Name	**Mr Alistair Payne**

DATE OF PANEL DECISION 2024-03-26

Publish the Decision