Decision for dispute CAC-UDRP-106516

Case number	CAC-UDRP-106516
Time of filing	2024-05-13 12:07:17
Domain names	softbankgroupvip.com

Case administrator

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

Complainant

Organization	SoftBank Group Corp.

Complainant representative

Organization	CSC Digital Brand Services Group AB

Respondent

Organization	wangxu

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant has adduced evidence showing that it is the owner of the following protected marks for the brand SOFTBANK:

- Japanese trademark No. 1858515 registered on 23 April 1986 in Nice Classification List Classes 6, 9, 16, 19 and 20 (none of which refer to financial services) and No. 4476883 of 25 May 2001 in Class 36 (financial services);

- Hong Kong Special Administrative Region of China trademark No. 1999B01748AA registered on 8 July 1997 in Classes 41 and 42 (under Hong Kong procedures, the registration date was validated retroactively to the date of filing while the current registration number follows the merger of earlier registrations);

- US service mark No. 254547 registered on 26 February 2002;

- Chinese trademark No. 2024468 registered on 21 October 2002 in Nice Classification List Class 36;

- EU trademark No. 002070225 registered on 19 December 2002 in Classes 35 and 36;

- International trademark No. 861654 registered on 7 June 2005 in Classes 9, 35, 36 38, 41 and 42 (word and figurative mark).

The Complainant also adduced evidence to show that it is the registrant of the domain name <softbank.com>, registered on 1 April 1991, <softbank.jp>, registered on 26 March 2002, and <group.softbank>, registered on 18 July 2018.

The Respondent registered the disputed domain name <softbankgroupvip.com> on 25 February 2024 according to the Registrar Verification performed by the CAC Case Administrator.

FACTUAL BACKGROUND

The Complainant, SoftBank Group Corporation, is a Japanese company that was established in 1981 and began business as a software distributor, then entering software-related publishing. Today, the Complainant – one of Japan's and the world's largest companies – is the parent company of a global conglomerate involved in investment activities, information and communication technology services including internet services and implementation of the internet of things, provision of payment and financial services, robotics, and design of microprocessor intellectual property and related technology. It is a company internationally also renowned for its active investments on a global scale related to artificial intelligence.

To engage in its investment activities, the Complainant's holding structure consists of many related companies with similar names to the group's own name.

As regards the disputed domain name, the Complainant adduced screenshot evidence of the website to which it resolves. The screenshots show that the website serves via hyperlinks solely to elicit information from internet visitors. The Complainant's business name "SoftBank Group" appears there, as does the Complainant's logo.

Further screenshot evidence that the Complainant adduced included WHOIS records of a number of other registrations made through the same registrar in Singapore on the same date or at around the same time as the Respondent's registration. As with the disputed domain name, all were registered with WHOIS information redacted under the registrar's privacy protection facility. Whereas the term "vip" in the disputed domain name forms part, following "softbankgroup", of that name's stem under a <.com> gTLD registration, these other contemporaneous registrations were all made under the new gTLD <.vip>.

The Panel in addition discovered from the Registrar Verification that obviously incomplete or wrong registrant identification and contact details were given at registration.

PARTIES CONTENTIONS

Complainant:

The Complainant contends that, in creating the disputed domain name, the Respondent has added the generic, descriptive terms "group" and "vip" to the Complainant's SOFTBANK trademark, thereby making the disputed domain name confusingly similar to the Complainant's trademark. The fact that such terms are closely associated with the Complainant's protected brand underscores such confusing similarity while such confusion is all the more likely to the eye of an internet user due to several existing variants upon the Complainant's protected name owing to the presence of companies forming part of the Complainant's holding structure.

The Respondent has no rights or legitimate interest in the disputed domain name: It is not sponsored by or affiliated with Complainant in any way. Nor was the Respondent given licence, authorization, or permission to use the Complainant's trademarks, including in domain names. And the name given for the Respondent, "wangxu", does not resemble the disputed domain name.

The website to which the Respondent's domain name resolves seeks to take advantage of the fame of Complainant's trademarks and the trust and goodwill that the Complainant has fostered among consumers in order to, at a minimum, illegitimately increase traffic to the Respondent's website for its gain, and, at worst, "phish" personal information from the Complainant's customers, including, perhaps, sensitive financial information. In other words, the Respondent's sole and illegitimate purpose in registering and using the disputed domain name is to fool unsuspecting internet visitors, as is evident from the design of the website to which the disputed domain name resolves.

The Complainant also cites its screenshot evidence regarding further similar registrations under the <.vip> new gTLD that incorporate other well known brands to argue that this semantic similarity in registrations to the present instance, i.e. by introducing the term "vip" as a common optical element, supports its contention that the Respondent exhibits a pattern of abusive behaviour (a factor given particular weight by previous ADR Panels with respect to the UDRP criterion of bad faith).

Since the Respondent is making a direct effort to take advantage of the fame and goodwill that the Complainant has built up in its brand for the Respondent's own illegitimate -- and quite possibly fraudulent -- ends, and since the Respondent evidently intentionally provided false contact details upon registration, the Respondent's bad faith registration and use is clear, so completing demonstration that all parts of the UDRP's requirements for transfer of the disputed domain name are met.

Respondent:

No administratively compliant Response was filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown that the disputed domain name is identical or confusingly similar to trademarks 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 that 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 the UDRP were met and that there is no other reason why it would be inappropriate to provide a decision.

The Panel notes that its résumé of the Parties' contentions includes for the Complainant only its arguments pertinent to reaching a decision in this proceeding; it omits in particular several references to past ADR Panels' Decisions.

PRINCIPAL REASONS FOR THE DECISION

The Panel finds for the purposes of the UDRP cumulative three-part test -- whose elements are referred to in the decisional summary above -- that:

(1) The Complainant has adequately shown its own rights in the brand SOFTBANK and its business name "SoftBank Group" relative to their incorporation in the disputed domain name and that neither the addition of the term "vip" within the stem of the disputed domain name nor addition of the gTLD extension <.com> alters the confusing similarity of that name to "SoftBank Group" in particular, from which the Respondent formed the dominant optical and semantic element in the disputed domain name;

(2) There is no indication in the Case File that the Respondent might have any right or legitimate interest in the disputed domain name. To the contrary, all the indications are that the Respondent has neither and that it entered inaccurate details at registration in order to obtain a domain name designed to take illegitimate advantage of the Complainant's internationally well known brand, i.e. by perpetrating cybersquatting;

(3) The demonstrated concrete aim of the cybersquatting is to deceive internet users into providing their details for ends that, in these circumstances, can and probably do expose the details to misuse with consequent prejudice to the users concerned. This makes this case an undoubted instance of bad faith registration and use.

In light of these findings, the Panel FINDS for the Complainant and ORDERS transfer of the disputed domain name to it.

Finally, the Panel notes that, in reaching its findings, it has not ascribed probative importance to the evidence adduced by the Complainant in respect of contemporaneous <.vip> registrations, because of the sufficiency of other, compelling evidence but also because of the weak nature of the circumstantial evidence submitted to show a connection between the Respondent and the particular <.vip> registrations identified.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **softbankgroupvip.com**: Transferred

PANELLISTS

Name	**Kevin Madders**

DATE OF PANEL DECISION 2024-06-19

Publish the Decision