Decision for dispute CAC-UDRP-106980

Case number	CAC-UDRP-106980
Time of filing	2024-10-23 09:53:56
Domain names	sportingbet.fun

Case administrator

Name	Olga Slanařová (Case admin)

Complainants

Organization	Entain plc
Organization	Entain Operations Limited
Organization	Sportingbet Limited

Complainant representative

Organization	Stobbs IP

Respondent

Name	Onayan Janen

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 **Entain Operations Limited** is the owner of registered trademarks for SPORTINGBET in different jurisdictions, e.g. European Union trademark registration no. 018458661 SPORTINGBET (word), registered on September 16-09, 2022 for services in classes 35 and 36 and the Complainant **Sportingbet Limited** is also the owner of registered trademarks for SPORTINGBET in different jurisdictions, e.g. European Union trademark registration no. 003389897 SPORTINGBET, registered on February 23, 2005 for goods and services in classes 9, 35, 36, 38, 41 and 42.

FACTUAL BACKGROUND

The Complaint was filed by Entain plc (United Kingdom), Entain Operations Limited (Gibraltar) and Sportingbet Limited (United Kingdom). It results from the Complainant's undisputed allegations that it is an international sports-betting and gaming group, operating both online and in the retail sector.

They use the domain name <sportingbet.com> (created on 4 September 1997) as official website. The Complainants further contends the trademark SPORTINGBET be distinctive and well-known.

The disputed domain name <sportingbet.fun> was registered on May 1, 2024.

Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolves to a website which offers services (i.e. online sports betting and gaming) similar to and which compete with those offered by the Complainant.

PARTIES CONTENTIONS

The Complainants contend that the requirements of the Policy have been met and that the disputed domain name should be transferred to Complainant **Entain plc.**.
No administratively compliant Response has been filed.

RIGHTS

The Complainants have, 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 Complainants have, 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 Complainants have, 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.

The Complaint was filed by Entain plc (United Kingdom), Entain Operations Limited (Gibraltar) and Sportingbet Limited (United Kingdom), which are affiliated entities. In addition, the Complainants Entain Operations Limited and Sportingbet Limited are individually the owner of registered trademarks for SPORTINGBET in different jurisdictions. The Complainants requested that the Panel accepts the Complainants consolidation request. Furthermore, the Complainants requested the disputed domain name be transferred to Entain plc, the first Complainant.

As set forth in section 4.11.1 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"): "In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation".

In light of the above, the Panel finds that the Complainants have a specific common grievance against the Respondent because they share a common legal interest in the trademark rights on which this Complaint is based as a result of their affiliation with the same corporate group. In addition, Complainants Entain Operations Limited and Sportingbet Limited own registrations for the trademark SPORTINGBET. Against this background, the Panel does not see reasons why a consolidated Complaint brought by the Complainants against a single Respondent would not be fair and equitable. Moreover, the Respondent failed to come forward with any allegations or evidence to object the consolidation. For reasons of procedural efficiency, fairness and equity the Panel therefore accepts the joint Complaint. Therefore, throughout the remainder of the current Decision, the Panel will refer to both the Complainants as "the Complainant".

PRINCIPAL REASONS FOR THE DECISION

1. It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy, WIPO Overview 3.0, section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") at section 1.7).

Finally, the Top-Level Domain ("TLD") ".fun" of the disputed domain name may be disregarded under the first element confusing similarity test. WIPO Overview 3.0 at section 1.11.

The Panel finds the first element of the Policy has been established.

2. Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element, WIPO Overview 3.0, section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Moreover, the Panel notes that the nature of the disputed domain name carries a high risk of implied affiliation, since the disputed domain name is identical to the Complainant's trademark SPORTINGBET and that the trademark SPORTINGBET is not a combination of terms that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant. Generally speaking, previous UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation (see WIPO Overview 3.0, at section 2.5.1). The Panel shares this view.

Furthermore, this is also confirmed by the content of the website to which the disputed domain name resolves, which offers services (i.e. online sports betting and gaming) similar to and which compete with those offered by the Complainant.

Finally, removing the Top-Level Domains, the disputed domain name is identical to the Complainant's domain name < sportingbet.com >, which may mislead customers into thinking that the disputed domain name could be affiliated with the Complainant.

The Panel finds the second element of the Policy has been established.

3. The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

In the present case, the Panel notes that the disputed domain name is identical to the Complainant's trademark SPORTINGBET and is also identical to the Complainant's domain name <sportingbet.com>. In addition, it results from the Complainant's documented allegations that the disputed domain name resolves to a website which offers services (i.e. online sports betting and gaming) similar to and which compete with those offered by the Complainant. For the Panel, it is therefore evident that the Respondent knew the Complainant's mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant's trademark when it registered the disputed domain name. This is underlined by the fact that the disputed domain name is clearly constituted by the Complainant's trademark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. WIPO Overview 3.0, section 3.2.1.

On this regard, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the

Respondent has registered and is using the disputed domain name in bad faith:

(i) the nature of the disputed domain name (a domain name identical to the Complainant's mark);

(ii) the content of the website to which the disputed domain name directs, offering services similar to and which compete with those offered by the Complainant;

(iii) a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice of the disputed domain name.

The Panel finds that the Complainant has established the third element of the Policy.

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name be transferred to the Complainant **Entain plc.** .

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **sportingbet.fun**: Transferred

PANELLISTS

Name	**Dr. Federica Togo**

DATE OF PANEL DECISION 2024-12-04

Publish the Decision