Decision for dispute CAC-UDRP-107224

Case number	CAC-UDRP-107224
Time of filing	2025-01-13 09:33:17
Domain names	LIVERPOOLFCTICKETS.COM

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	The Liverpool Football Club and Athletic Grounds Limited

Complainant representative

Organization	Stobbs IP

Respondent

Name	Craig Court

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 Liverpool Football Club and Athletic Grounds Limited. It owns numerous trademark registrations comprising of “LIVERPOOL FOOTBALL CLUB”, “LFC” as well as “LIVERPOOL FC.” It relies in particular on the following:

1.The UK mark no. 907624565 for the word mark, LIVERPOOL FC, was first registered on June 30, 2008 in classes 6,18,21,24 & 25 and is a clone of the same EUTM.

2. The EUTM no. 018708332 for the word mark, LIVERPOOL FC, was registered on December 7, 2022 in classes 11, 14,20,26, 34, 35, 39 and 42.

The Complainant says it is a famous mark and that previous panels have acknowledged that, for example in WIPO Case No. D2002-0046.

FACTUAL BACKGROUND

The Complainant is a professional football club based in Liverpool, United Kingdom. The football club was founded in 1892. It is now one of the most widely supported football clubs in the world. The club has won nineteen League titles, seven FA Cups, a record

eight League Cups and fifteen FA Community Shields. In international club competitions, the club has secured six European Cups, more than any other English football club, three UEFA Cups, four UEFA Super Cups and one FIFA Club World Cup

The domain name <liverpoolfc.tv> had been used for the purposes of a website at www.liverpoolfc.tv since as early as 2000, serving as the official website for the Complainant at the time, and which provides news, statistics and other information on the club, as well as selling match tickets and club merchandise. In 2002, the Complainant began to use the domain name <liverpoolfc.com> as its primary website for the club, initially as a redirect to www.liverpoolfc.tv, and then as a website at www.liverpoolfc.com in its own right. Aside from <liverpoolfc.tv> and <liverpoolfc.com>, the Complainant owns various other domain names comprising of the LIVERPOOL FC term, including <liverpoolfc.co.uk> .

The disputed domain name was registered 25 years ago on 20 November 2000 but was only acquired by the Respondent, Mr Court, on 12 December 2024. It resolves to a parking page. The Panel visited that on 19 February 2025. It was a parking page with 5 football related links including one that said “Liverpool Tickets,” the others said “Watch Live Soccer,” “Champions League,” “Football Results,” “Football News.” None of the links resolved when clicked on.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
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 not, 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 not, 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

There is no question that the Complainant is famous. It has a large portfolio of registered rights. It also has rights at common law.

For the first limb of the Policy, we must consider whether 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).

So here we are comparing <liverpoolfctickets.com> with "liverpoolfc". But the suffix is ignored for the similarity analysis under the Policy.

So here we are comparing <liverpoolfctickets> with liverpoolfc.

While the suffix is disregarded, it can be relevant to the issue of impersonation and a .com can suggest a domain name is official. The disputed domain name has the whole word mark, together with the descriptive or generic term “tickets.” Adding a generic term, in front –or indeed after, a well-known name and mark does not prevent a finding of confusing similarity. E.g., Hoffmann-La Roche

Inc. v. Hightech Industries, Andrew Browne, WIPO Case No. D2010-0240. The generic term could generate the impression that the disputed domain name is official. In this case however, the Panel does not believe that this is a case of impersonation proper. The public would not believe that only the Complainant could sell or market their club tickets.

The Panel finds that the Complainant has rights in a name or mark similar to the disputed domain name.

This case is really about legitimate and fair use under the second limb of the Policy. At the second limb, a complainant is only required to make out a prima facie case that a respondent lacks rights or legitimate interests and then the burden shifts to the respondent to show it has rights or legitimate interests in the domain name. If it fails to do so, the complainant is deemed to have satisfied the limb in paragraph 4(a) (ii). Although there is no response, we must still consider the issues. There is no default judgment under the Policy.

Under the UDRP (the Policy) in Paragraph 4(c)the Respondent can show any of:

"(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

However, Paragraph 4(c) is not exhaustive and includes the language, "[a]ny of the following circumstances, in particular but without limitation…" The position is that the Complainant must make a prima facie case and then the Respondent should rebut it.

Here (i) or (iii) can apply. Here there is parking. That like passive holding can be legitimate and fair use, even where there is some commercial activity, like pay per click, and it is a highly fact sensitive inquiry. The WIPO overview notes at 2.9 that the use of a domain name to host a parked page comprising PPC links does not represent a bona fide offering if the links mislead Internet users or free-ride. And as to passive holding, at 3.3 "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine ...and (iv) the implausibility of any good faith use to which the domain name may be put."

There are a number of issues with the use here. It is not making an offering per se due to the parking/passive holding. But the use/non-use is arguably nominative - it could be used to advertise or resell genuine tickets for the club's games and how else would it describe them? "Nominative" use is not regarded as trademark use and would not sustain an infringement claim if it does not impact the "badge of origin function" of the mark. The same rule has found its way into the domain name norms and the WIPO Overview 3.0, section 2.8 summarizes the consensus views of UDRP panels in assessing claims of nominative (fair) use by resellers or distributors in the following manner: "Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a bona fide offering of goods and services and thus have a legitimate interest in such domain name." The public understands that many third parties might resell the club's tickets and as long as they are genuine, that can be legitimate use by a reseller or distributor without an impact on the origin or other essential functions of the mark. Here we have no resales that we know of but the disputed domain name is capable of legitimate use. There is a thriving market for ticket resales in the UK and many third-party vendors help fans to resell genuine tickets and provided they are not touts, this appears to be legitimate in practice at least. So there are potentially fair and legitimate uses of the disputed domain names and parking and passive holding are fact sensitive. This factor is finely balanced but the Panel finds there is potential and actual, if minimal, legitimate and fair use of this 25-year-old disputed domain name.

As to the final Policy limb, bad faith, that finding often follows from the second limb. This case is very unusual as the disputed domain name is so old. The Complainant's registered rights are relatively late. Of course, the Complainant will have common law rights also. The age of the disputed domain name should mean it could not be challenged but the Respondent only recently took over the ownership. The WIPO overview at 3.9 notes "..the transfer of a domain name registration from a third party to the respondent is not a renewal and the date on which the current registrant acquired the domain name is the date a panel will consider in assessing bad faith. This holds true for single domain name acquisitions as well as for portfolio acquisitions."

It strikes the Panel that the Complainant wants the disputed domain name but does not want to pay for it. As there has been a change of ownership, it seeks to use that to now obtain it for free. The Complainant's conduct looks opportunistic. The domain name system was and is a first come, first served system and in a sense the disputed domain name has an inherent value and/or an investment value.

The Policy is addressed to resolving disputes concerning allegations of abusive domain name registration and use. Accordingly, the jurisdiction of this Panel is limited to providing a remedy in cases of "the abusive registration of domain names", also known as "cybersquatting". Weber-Stephen Products Co. v. Armitage Hardware, WIPO Case No. D2000-0187. That includes reverse domain name hijacking or RDNH. This is defined under the Rules as "using the UDRP in bad faith to attempt to deprive a registered domain-name holder of a disputed domain name." (see WIPO Overview 3.0, section 4.16). This is not a case of RDNH. But the Complainant should have appreciated that establishing registration and use in bad faith in respect of a domain name which had first been registered 25 years ago was likely to involve difficult considerations and it hopes to succeed on what is really a technicality.

The Panel finds that the Complainant has not made out its burden under the Policy and the Complaint is rejected.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Rejected

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

1. **LIVERPOOLFCTICKETS.COM**: Remaining with the Respondent

PANELLISTS

Name	**Victoria McEvedy**

DATE OF PANEL DECISION 2025-02-19

Publish the Decision