Decision for dispute CAC-UDRP-107283

Case number	CAC-UDRP-107283
Time of filing	2025-01-31 16:35:55
Domain names	uefa-tickets.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Union des Associations Europeenes de Football (UEFA)

Complainant representative

Organization	Stobbs IP

Respondent

Name	Nemykin Dmitriy Aleksandrovich

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

In this proceeding the Complainant relies on various "UEFA" registered trademarks, including the following:

- International trademark registration under the "Madrid" system (IR) No. 718096 "UEFA" (word), registration date is April 16, 1999, protected, inter alia, in Albania, Armenia, Belarus, the Benelux, France, Germany, Russia, Turkey, Ukraine and the UK and
- UK trademark registration No. UK00800931376 "UEFA" (word), registration date is July 07, 2008, application date is December 20, 2006

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

THE DISPUTED DOMAIN NAME IS IDENTICAL OR CONFUSINGLY SIMILAR TO A TRADEMARK OR SERVICE MARK IN WHICH THE COMPLAINANT HAS RIGHTS

The Complainant states that it was founded on 15 June 1954 and it is the umbrella organisation for the 55 national football associations across Europe.

The Complainant runs national and club competitions including the UEFA European Football Championship, UEFA Nations League, UEFA Champions League, UEFA Europa League, UEFA Conference League and UEFA Super Cup, and controls the prize money, regulations and media rights to those competitions.

The Complainant refers to its active online presence, including its main website at <uefa.com> and its accounts in social media, including "Instagram" and "Facebook".

The Complainant claims that it has a significant reputation, has built up a vast amount of goodwill in its UEFA trademarks in the UK and abroad in relation to football in Europe and owns multiple trademark registrations, including registrations provided above.

The Complainant submits that the disputed domain name is identical or at least confusingly similar to its "UEFA" trademarks since the addition of "tickets" does not negate confusing similarity. In the Complainant's view, the term "tickets" actually increases confusing similarity since it is associated with the Complainant and its activities.

The .com gTLD is merely a technical requirement and does not affect confusing similarity.

THE RESPONDENT HAS NO RIGHTS OR LEGITIMATE INTERESTS IN RESPECT OF THE DISPUTED DOMAIN NAME

The Complainant submits that the Respondent does not have any rights or legitimate interests in respect of the disputed domain name.

In particular, the Complainant alleges that the Respondent uses the disputed domain name to offer “tickets” for UEFA events from an unauthorised vendor. As such the sale of unauthorised “tickets” for UEFA events diverts customs away from authorised and reputable sources approved by the Complainant, towards the Respondent. As such, the Respondent cannot claim that he is using the disputed domain name for a bona fide offering of goods and/or services.

The Complainant states that the Respondent has never legitimately been known by the name "UEFA" at any point in time.

The Complainant submits that the Respondent is not making a legitimate non-commercial or fair use of the disputed domain name as he uses the disputed domain name for a website that offers unauthorized tickets to UEFA competitions.

Therefore, the Complainant claims that the Respondent does not have rights or legitimate interests in respect of the disputed domain name.

THE DISPUTED DOMAIN NAME WAS REGISTERED AND BEING USED IN BAD FAITH

The Complainant's submissions on the bad faith element can be summarized as follows:

- the disputed domain name was registered many years after the registration of the Complainant's marks. The Complainant enjoys a wide reputation in the UEFA brands. The Respondent was aware of UEFA given the disputed domain name makes use of the Complainant’s trademarks. The Complainant is a well-known organisation in football and there is no plausible reason for registering the disputed domain name other than to target the Complainant;
- the Respondent had actual knowledge of the Complainant’s brand and trademarks at the time of the registration of the disputed domain name, and the disputed domain name was registered with intent to target the Complainant’s brand;
- the Complainant submits that the Respondent can be considered "competitor" for the purpose of the Policy and he operates a competing business, therefore, the Respondent registered the disputed domain name primarily for the purpose of disrupting the business of a
competitor and
- the website at the disputed domain name is not an authorised source nor affiliate of the Complainant, therefore the source or existence of any genuine tickets cannot be confirmed. The Complainant submits that this puts the Complainant’s customers at risk of fraud or other malicious acts and the Respondent's behavior falls within par. 4 (b) iv) of the Policy.

PARTIES CONTENTIONS

The Complainants' contentions are summarized in the Factual Background section above.

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, 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.

Language of the proceeding

According to the Registrar verification the language of the registration agreement is Russian.

The Complainant requests to conduct this proceeding in English based on the fact that the disputed domain name resolves to a website in English and it is reasonable to infer that the Respondent is capable of understanding this complaint.

Under par. 11 (a) of the UDRP Rules unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Panel needs to consider the interests of both parties to the proceeding and provide them with a fair opportunity to present their case and at the same time to ensure that the administrative proceeding takes place with due expedition.

The Panel finds that it would be fair to have English as the language of this proceeding based on the following:

-The website at the disputed domain name has both English and Russian versions. The English version of the website is well developed and this indicates that the website targets international audience including English speaking visitors. Based on the above, it is reasonable to infer that the Respondent understands English and it is not unfair to the Respondent to conduct this proceeding in English;

-The Respondent was notified by the CAC in both Russian and English languages about this proceeding, he did not submit any response (whether formal or informal) and he never accessed the online platform of the CAC. The Panel knows both Russian and English;

-Based on the above and taking into account Panel's obligation to ensure that the administrative proceeding takes place with due expedition, the Panel finds that it would be fair and reasonable to both Parties to proceed in English.

PRINCIPAL REASONS FOR THE DECISION

A. Identical or confusingly similar

The Complainant provided evidence of trademark rights in the UK and its IR for the word mark "UEFA".

As confirmed by “WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition” or "WIPO Overview 3.0": “where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case” (see sec. 1.2.1).

Therefore, the Complainant has trademark rights for the purpose of the Policy.

This Panel supports the view that the test for confusing similarity under the UDRP is relatively straightforward and typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The disputed domain name fully incorporates the "UEFA" mark of the Complainant plus a descriptive element "tickets".

The Panel agrees with the position expressed in WIPO Overview 3.0: “Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether **descriptive**, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element” (see sec. 1.8).

The Panel finds that the “UEFA” mark is recognizable within the disputed domain name and the mark is clearly a dominant element

in the disputed domain name. The descriptive term “tickets” does not eliminate confusing similarity. Moreover, given the Complainants’ business activities, it actually increases confusion.

The gTLD “.com” is to be disregarded under the confusing similarity test as it does nothing to eliminate confusion.

Therefore, the Panel finds that the first requirement of the Policy has been satisfied.

B. Rights or Legitimate Interests

The general rule is the following:

(i) a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests; and

(ii) once such prima facie case is made, the burden shifts to the respondent who has to demonstrate his rights or legitimate interests in respect of the domain name under paragraph 4 (c) of the Policy.

If the respondent fails to do so, the second element of the Policy is satisfied, see “Julian Barnes v. Old Barn Studios”, WIPO Case No. D2001-0121 and sec. 2.1 of WIPO Overview 3.0.

The Respondent did not respond.

While failure to respond does not per se demonstrate that the Respondent does not have rights or legitimate interests, it allows the Panel to draw such inferences as it considers appropriate, see paragraph 14(b) of the Rules and **CAC Case No. 101284**: “A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable inferences may be drawn from the information provided by the complainant”.

According to "whois data" the disputed domain name was registered on February 06, 2023 and it resolves to a website that offers tickets to football competitions organized by the Complainant.

The Complainant asserts that the Respondent does not have any rights or legitimate interests and the Respondent is engaged in an unauthorized activity.

As established by UDRP case law resellers and service providers (both authorized and unauthorized) can have a legitimate interest in respect of a disputed domain name under certain circumstances, see sec. 2.8 of WIPO Overview 3.0 and “Oki Data Americas, Inc. v. ASD, Inc.”, WIPO Case No. D2001-0903, <okidataparts.com>. This can, under certain circumstances, constitute “a bona fide offering of goods or services...” under 4 c.(i) of the Policy.

At the same time, while the “Oki Data” test has consistently been applied since 2001, it can be adapted to specific circumstances of a particular case and some UDRP panels adopt a more holistic approach to the "Oki Data" criteria, see sec. 2.3 of “UDRP Perspectives on Recent Jurisprudence”, (“UDRP Perspectives”) updated on January 15, 2025.

The nominative fair use doctrine allows registration and use of domain names to describe the nature of respondent’s business and as noted by Gerald Levine: “The registration of domain names incorporating marks is lawful provided that the goods or services are genuine and respondents are not attempting to pass themselves off (impersonating) as the mark owner or misrepresent its relationship or independence from it” (see “**The Clash of Trademarks and Domain Names on the Internet**”, Volume 1, Gerald M. Levine 2024, “Legal Corner Press”, page 93).

The Panel reviewed both screenshots of the website at the disputed domain name provided by the Complainant and conducted its own research under its powers granted under rule 10 (a) of the UDRP Rules and reviewed the website at the disputed domain name on the date of this decision.

The Panel notes that there is no disclaimer or any other statement or explanation on the website of the disputed domain name that would explain its true nature, in particular, that it is not affiliated with or endorsed by the Complainant.

Some panels found that the disclaimer’s presence or absence is not a decisive factor in deciding whether the site “accurately discloses the registrant’s relationship with the trademark owner” (see e.g. “Airbus SAS v. Ben Riecken”, WIPO Case No. D2023-3842).

This Panel looks both at the four “Oki Data” factors and at multiple factors related to the registration and use of the disputed domain name under more holistic approach such as the composition of the disputed domain name, the content of the website as well as any other circumstances relating to the use of the domain name, the Respondent’s business and the Complainant's business (see sec. 2.3 of UDRP Perspectives).

Based on the above, this Panel finds that the Respondent failed to comply with the nominative fair use test criteria.

The Panel believes the Respondent failed to accurately disclose his relationship with the trademark owner, taking into account the absence of clear statements on his website, the nature of the disputed domain name (that fully incorporates the "UEFA” trademark plus a descriptive element “tickets") and overall content of the website and the nature of the Complainant's business.

Here the composition of the disputed domain name, in the Panel’s view, suggests endorsement and impersonation.

This Panel believes that the composition of the domain name is not the only factor in deciding whether resellers or service providers

have a legitimate interest.

Rather, it is one of the multiple factors and other factors are actual use of the domain name and content of the website.

Nevertheless, in this dispute, the composition of the disputed domain name along with the other factors go against the Respondent and suggest a false endorsement and impersonation. Besides, there is also an issue of whether sale of unauthorized tickets in direct competition with the Complainant may constitute a bona fide activity (see e.g. "The Pennsylvania State University v. Donald Vaccaro / TicketNetwork", Forum FA2004001894202: "The resolving website sells unauthorized tickets, thus competing with Complainant. This is not a bona fide offering of goods or services or a legitimate noncommercial or fair use under Policy").

To sum up, nominative use must be fair and bona fide and the Panel finds that the Respondent's use of the disputed domain name in the circumstances of this case is not fair and is not bona fide offering of goods.

Therefore, the Panel finds that the Complainants have satisfied the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists non-exhaustive circumstances indicating registration and use in bad faith.

These circumstances are non-exhaustive and other factors can also be considered.

The Panel first notes that the failure to comply with the nominative fair use test does not always establish respondent's bad faith (see sec. 2.3 of UDRP Perspectives and "Thor Tech Inc. v. Eric Kline", **WIPO Case No. D2023-4275**).

If respondent's behavior does not fall within the scope of abusive domain name registration ("cybersquatting"), there is no bad faith.

Cybersquatting can be defined as "registration made with bad-faith intent to profit commercially from others' trademarks" (see par. 4.1 c. of the ICANN "Second Staff Report on Implementation Documents for the Uniform Dispute Resolution Policy", 1999).

It is well established that bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark (see sec. 3.1 of WIPO Overview 3.0). Targeting with an intent to take an unfair advantage of the complainant's mark is important in establishing bad faith under the UDRP.

As noted in UDRP Perspectives, sec. 3.3: "Targeting can be established by either direct evidence (e.g. content of the website) or circumstantial evidence such as strength of the mark and nature of a disputed domain name (e.g. mark plus a term describing Complainant's business), timing of registration of a domain name and timing of trademark registration, geographic proximity of the parties".

Here direct evidence clearly indicates that the Respondent targeted the Complainant and such targeting was with an intent to profit commercially from its trademarks and such use is not bona fide.

The Panel finds that the disputed domain name was registered and is being used in bad faith based on the following:

1. The nature of the disputed domain name – confusingly similar to well-known trademarks plus a descriptive element and the timing of the registration of the disputed domain name – many years after the Complainant obtained protection for its trademarks and started its business. Based on the fame and strong reputation of the "UEFA" trademark the Panel finds that the Respondent registered the disputed domain name keeping in mind the Complainant's marks. The composition of the disputed domain name demonstrates an intent to target the Complainant.
2. The nature of use of the disputed domain name and the content of the website clearly demonstrate targeting. The content of the website is related to the Complainant and its competitions and there are no statements on the website that would explain its true nature (e.g. that it is not an official UEFA website).
3. The Respondent registered and is using the disputed domain name to take unfair advantage of the Complainant's trademarks. The Respondent's use of the disputed domain name so strongly connected to the Complainants' business and marks that it creates an impression of affiliation or endorsement, in the circumstances of this dispute, is unfair. The Respondent registered and is using the disputed domain name to attract visitors to his website to sell tickets to the football competitions organized by the Complainant.
4. Based on the above, the Panel finds that Respondent's behavior falls within, at least, par. 4 b (iv) of UDRP and the Respondent by using the disputed domain name has intentionally attempted to attract, for commercial gain, Internet users to his web site, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement and that the Respondent targeted the Complainant with an attempt to take unfair advantage of the Complainant's mark.

The Panel holds that the third requirement of the Policy has been satisfied.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **uefa-tickets.com**: Transferred

PANELLISTS

Name	**Igor Motsnyi**

DATE OF PANEL DECISION 2025-03-03

Publish the Decision