

ADMINISTRATIVE PANEL DECISION

Playtech Software Limited v. Domain Administrator, See PrivacyGuardian.org
/ Aleksandr Noskov
Case No. D2022-1753

1. The Parties

The Complainant is Playtech Software Limited, United Kingdom, represented by Linklaters LLP, United Kingdom.

The Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America (“United States”) / Aleksandr Noskov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <pokerstrategy.buzz> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 13, 2022. On May 16, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 17, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 23, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 26, 2022.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 20, 2022. On June 23, 2022, the Complainant sent an email communication to the Center informing that the postal address indicated on the website at the Domain Name was the address of the Complainant’s premises.

In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 22, 2022.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on July 27, 2022. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant, together with the Playtech plc group, is a supplier of online gaming software. In particular, the Complainant operates online poker strategy school with over 9,468,561 members as of April 28, 2022.

The Complainant is the owner of several POKERSTRATEGY trademark registrations, including:

- the International Trademark Registration for POKERSTRATEGY No. 1066867 registered on April 29, 2010;
- the European Union Trademark Registration for POKERSTRATEGY No. 008659781 registered on July 27, 2012;
- the United Kingdom Trademark Registration for POKERSTRATEGY No. UK00908659781 registered on July 27, 2012;
- the United States Trademark Registration for POKERSTRATEGY No. 3297648 (figurative trademark) registered on September 25, 2007.

The Complainant is also the owner of the domain name <pokerstrategy.com> incorporating its POKERSTRATEGY trademark (the "Complainant's Official Website").

The Respondent registered the Domain Name on April 7, 2022.

In accordance with the screenshots attached to the Complaint, at the time of submitting the Complaint, the Domain Name resolved to a website constituting a direct copy of the Complainant's Official Website translated from English into Russian (the "Respondent's Website"). As of the date of this Decision, the Domain Name also resolves to the Respondent's Website.

5. Parties' Contentions

A. Complainant

The Complainant requests that the Domain Name be transferred to the Complainant. According to the Complainant, each of the three elements specified in paragraph 4(a) of the Policy are satisfied in the present case.

First, the Complainant submits that the Domain Name is identical to the POKERSTRATEGY trademark of the Complainant.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met.

At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence". See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the Domain Name is identical or confusingly similar to a trademark in which the Complainant has rights.

The Complainant holds valid POKERSTRATEGY trademark registrations (which precede the registration of the Domain Name).

The Domain Name incorporates the Complainant's POKERSTRATEGY trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to a registered trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS Computer Industry (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The generic Top-Level Domain ("gTLD") ".buzz" in the Domain Name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See section 1.11.1, [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is identical to the Complainant's trademark. Thus, the Complainant has proved the requirements under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the Domain Name.

The respondent may establish a right or legitimate interest in the disputed domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made 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 prior to the dispute; or
- (ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or

(iii) that it is making a legitimate noncommercial or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence in the record that the Complainant's POKERSTRATEGY trademark registrations predate the Respondent's registration of the Domain Name. There is no evidence in the case file that the Complainant has licensed or otherwise permitted the Respondent to use the POKERSTRATEGY trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence in the record that the Respondent does not make use of the Domain Name in connection with a *bona fide* offering of goods or services, as well as it does not make a legitimate, noncommercial or fair use of the Domain Name without intent for commercial gain.

On the contrary, the Respondent uses the Domain Name to attract Internet users to the Respondent's Website which constitutes a copy of the Complainant's Official Website translated from English into Russian.

In this regard, pursuant to paragraph 10(d) of the Rules, the Panel accepted also the email communication sent by the Complainant to the Center on June 23, 2022 informing that the postal address indicated on the website at the Domain Name is the address of the Complainant's premises. This fact constitutes a further proof of copying the content of the Complainant's Official Website on the Respondent's Website without any notice or disclaimer which would signal the lack of relationship with the Complainant. Such use of the Domain Name does not constitute a *bona fide* offering of goods or services, as well as does not qualify as a legitimate noncommercial or fair use without intent for commercial gain.

Finally, the Panel finds that the nature of the Domain Name carries a high risk of implied affiliation, as the Domain Name is identical to the Complainant's trademark. See section 2.5.1, [WIPO Overview 3.0](#).

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence in the case file that refutes the Complainant's *prima facie* case. The Panel concludes that the Complainant has also proved the requirement under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The third requirement the Complainant must prove is that the Domain Name has been registered and is being used in bad faith.

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 section 3.1, [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

(i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or

(ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct; or

(iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the POKERSTRATEGY trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration of the Domain Name. This finding is supported by the content of the Respondent's Website purporting to offer the same services as the Complainant and doing so by reproducing the Complainant's contact address suggesting affiliation with the Complainant. Thus, it is inconceivable that the Respondent could have been unaware of the products and services under the Complainant's trademark. Moreover, it has been proven to the Panel's satisfaction that the Complainant's POKERSTRATEGY trademark is well known and unique to the Complainant. Thus, the Respondent could not likely reasonably ignore the reputation of products and services under this trademark. In sum, the Respondent in all likelihood registered the Domain Name with the expectation of taking advantage of the reputation of the Complainant's POKERSTRATEGY trademark.

Moreover, the Complainant presented evidence that the Domain Name is used in bad faith by the Respondent to attract Internet users to the Respondent's Website which constitutes a copy of the Complainant's Official Website translated from English into Russian without any disclaimer indicating the lack of relationship with the Complainant. Thus, this Panel finds that the Respondent uses the Domain Name in an attempt to attract, for commercial gain, Internet users to the Respondent's Website by creating a likelihood of confusion with the POKERSTRATEGY trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website or the activity carried out through this Website by the Respondent.

For the reasons discussed above, the Panel finds that the Complainant has proved the requirements under paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <pokerstrategy.buzz> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: August 10, 2022