

ADMINISTRATIVE PANEL DECISION

SportAccord v. Luca pittarello
Case No. D2023-4267

1. The Parties

The Complainant is SportAccord, Switzerland, represented internally.

The Respondent is Luca pittarello, Italy.

2. The Domain Name and Registrar

The disputed domain name <worldcombatgames.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 13, 2023. On October 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 17, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 24, 2023, 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 October 25, 2023. On November 8, 2023, the Complainant filed an amendment to the Complaint.


The Center verified that the Complaint together with the amended Complaint and amendment to the 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 November 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 30, 2023.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on December 15, 2023. 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 is a not-for-profit association incorporated under Swiss law. It is the legal successor of the Global Association of International Sports Federations (GAISF), in whose name the Swiss Trademark WORLD COMBAT GAMES is registered. The below trademark registration was transferred to the Complainant under the Asset Transfer Agreement of April 24, 2023.

Trademark	No. Registration	Jurisdiction	Date of Registration	Filing date
	753253	Switzerland	October 12, 2020	May 15, 2019

The Respondent registered the disputed domain name <worldcombatgames.com> on January 1, 2020. The Complainant submitted evidence showing that it owned the disputed domain name at least until June 2019. The disputed domain name currently resolves to an inactive webpage, however, according to evidence filed by the Complainant and not contested by the Respondent, it used to resolve to a webpage that had a similar layout to that of a former webpage of the Complainant displaying the Complainant's trademark.

In 2018, the Complainant switched its main domain name from <worldcombatgames.com> to <worldcombatgames.sport>.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends the following:

I. Identical or Confusingly Similar

That the disputed domain name is identical to the Swiss trademark registration no. 753253 WORLD COMBAT GAMES.

II. Rights or Legitimate Interests

That the disputed domain name <worldcombatgames.com> had been originally registered by the Complainant and used by the Complainant before the Respondent registered it.

That the Respondent is not known as "World Combat Games", as this is a recognized designation, which has been registered as a trademark, for a sport-related event organized since 2010 by the Complainant.

That the non-authorized use of intellectual property of the Complainant in the broadest sense (including the website design, the pictures, the texts, the Complainant's trademark, the trademarks of former sponsors of the Complainant, etc.) and the verbatim copy of a pre-existing website of the Complainant cannot be considered by any means as fair use.

III. Registered and Used in Bad Faith

That the disputed domain name was registered in 2020 and that it used to resolve to a website that displayed content that consisted of a non-authorized replica of an old webpage of the Complainant and, hence, that it created the false appearance that the disputed domain name (and the website to which it resolved) still belonged to and was under the control of the Complainant.

That the quick evolution from a simple landing page to a full fake replica of the Complainant's former website content, shows a clear intent to attract the Complainant's attention and force a negotiation for obtaining a gain from a disputed domain name that is not only identical to the Complainant's trademark, but which had also been previously and extensively used by the Complainant in connection with an internationally renowned event.

That the fact that the Respondent created and made available a replica of the Complainant's website (even including the copyright notice as belonging to the Complainant) has undoubtedly damaged the image and reputation of the Complainant and that of the World Combat Games themselves.

That the content replicated and made available by the Respondent had the potential of misleading staff and other informed users into believing that the disputed domain name was still under the Complainant's control.

That, moreover, the risk of confusion is even worse in the case of the general public interested in the World Combat Games, who could have landed by mistake at the page to which the disputed domain name resolved.

That it should be noted that the World Combat Games are especially popular among teenagers/underaged population, who, given the misleading content associated to the webpage to which the disputed domain name resolved, could have been willing to provide contact/personal data to a party that had no right to it.

B. Respondent

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

6. Discussion and Findings

Given the Respondent's failure to submit a Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 15(a) of the Rules, (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

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.

Based on the available record, the Panel finds 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 Panel finds the entirety of the verbal element of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the Complainant's mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

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 to 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.

According to the evidence filed by the Complainant and not rebutted by the Respondent, the website to which the disputed domain name used to resolve seemed to have reproduced elements of the Complainant’s former website content. Therefore, and considering that the disputed domain name entirely incorporates the Complainant’s trademark WORLD COMBAT GAMES, the Panel notes that the composition of the disputed domain name carries a high risk of implied affiliation, since Internet users may have thought that the website to which the disputed domain name used to resolve was the Complainant’s official website or was otherwise affiliated to or sponsored by the Complainant (see section 2.5.1 of the [WIPO Overview 3.0](#), see also *Euro Sko Norge AS v. Whoisguard Inc. / Shier Dede, Shier Dede*, WIPO Case No. [D2020-0194](#), *Bechtel Group, Inc. v. Raman Shuk*, WIPO Case No. [D2020-1469](#), *Biofarma v. Dawn Mason* WIPO Case No. [D2019-1952](#)).

Given the history of the use of the disputed domain name, the risk of the disputed domain name being once again associated to content that emulates or reproduces that of the Complainant is still latent.

Panels have held that the use of a domain name for illegal activity (e.g., phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights to or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The evidence submitted by the Complainant suggests that the Respondent has attempted to impersonate the Complainant. The website to which the disputed domain name used to resolve predominantly displayed the Complainant’s trademark and a copyright notice (see *Self-Portrait IP Limited v. Franklin Kelly*, WIPO Case No. [D2019-0283](#); *Allianz SE v. Paul Umeadi, Softcode Microsystems*, WIPO Case No. [D2019-1407](#); *SVB Financial Group v. WhoisGuard Protected, WhoisGuard, Inc. / Citizen Global Cargo*, WIPO Case No. [D2018-0398](#); and *Haas Food Equipment GmbH c. Usman ABD, Usmandel*, WIPO Case No. [D2015-0285](#)).

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

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.

The Panel notes that the Respondent registered the disputed domain name before the Complainant’s trademark was registered. However, in the present case the Panel notes that the Respondent caused the disputed domain name to resolve to a website that reproduced content from the former website of the Complainant. Moreover, the disputed domain name was registered after the filing of the Complainant’s

trademark application. The aforementioned suggests that the Respondent knew the Complainant, its nascent trademark registration (having also used the mark many years before the disputed domain name was registered), and its sports/entertainment event when registering the disputed domain name, and that the Respondent has targeted the Complainant.

The evidence submitted by the Complainant and not rebutted by the Respondent also shows that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, Internet users to the website to which the disputed domain name used to resolve, by creating the impression among Internet users that said website was related to, associated with, or endorsed by the Complainant, which conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#); and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)).

Panels have held that the use of a domain name for illegal activity (e.g., impersonation, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy. The current passive holding of the disputed domain name does not prevent a finding of bad faith.

Based on the available record, the Panel finds that the Complainant has established the third element 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 disputed domain name <worldcombatgames.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: December 29, 2023