

ADMINISTRATIVE PANEL DECISION

DK Crown Holdings Inc. v. Joe Larson, NFTarena LLC
Case No. DIO2024-0008

1. The Parties

Complainant is DK Crown Holdings Inc., United States of America ("United States"), represented by FisherBroyles LLP, United States.

Respondent is Joe Larson, NFTarena LLC, United States.

2. The Domain Name and Registrar

The disputed domain name <nftdraftkings.io> (hereinafter "Disputed Domain Name") is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 26, 2024. On March 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On the same day, 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 (Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on March 27, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on the same day.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the "Policy"), the Rules for .IO Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for .IO Domain Name Dispute Resolution Policy (the "Supplemental Rules").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on March 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 17, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on April 18, 2024.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on April 23, 2024. 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

Complainant, a Delaware corporation formed in 2011, conducts business in the fields of sports entertainment, daily fantasy sports, online sports, and online casino gambling. Its global headquarters are in Boston, Massachusetts, and it operates affiliated facilities in Ireland, Israel, Bulgaria, and the United Kingdom. Complainant employs approximately 4,500 people worldwide. In 2023, Complainant and its related companies reported total revenue of approximately USD 3.7 billion. It is publicly traded on the NASDAQ stock exchange.

Complainant's DRAFTKINGS name and trademark (hereinafter the "Mark") are well known. Complainant, which operates through many marketing channels, including its website at <draftkings.com>, has millions of unique customers per month. Complainant spends heavily to promote its brand. In 2021, for example, Complainant spent nearly USD 1 billion to promote services offered under Mark and to attract new customers.

Complainant owns several trademark registrations for DRAFTKINGS, including United States Trademark Registration No. 4,308,819 (registered on March 26, 2013) and 5,345,223 (registered on November 28, 2017).

Complainant offers fantasy sports contests based on Non-Fungible Tokens ("NFT") representing player profiles in football, golf, and fighting, all under the name DRAFTKINGS REIGNMAKERS. Complainant does not state when it began offering these NFT-based contests, except to allege that its NFT-based fantasy sports business generated revenue in excess of USD 10 million in 2023.

Respondent registered the Disputed Domain Name on December 7, 2021.¹ According to the Complainant's evidence, visitors to the Disputed Domain Name are redirected to <az6.ab5.myftpupload.com>, where the associated website offers NFT-based fantasy sports contests similar to Complainant's NFT-based fantasy sports contests and related offerings.

Respondent is not affiliated with Complainant, and Complainant has never granted Respondent a license or permission to use the DRAFTKINGS Mark.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

¹The Panel's independent research indicates that the date the Disputed Domain Name was registered (December 7, 2021) is the same date of at least one public report that the National Football League Players Association would release NFTs with Complainant starting with the 2022-23 NFL season. See "<https://www.sportsbusinessjournal.com/Daily/Issues/2021/12/07/Technology/nflpa-partners-with-draftkings-to-release-nfts-starting-next-season.aspx>" (visited May 6, 2024). The Panel notes this apparent fact, but does not rely on it to reach its decision because it is not essential to reach a conclusion in the present matter, and Complainant did not allege this fact or offer evidence supporting it.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Given the similarities between the .IO Policy and the Uniform Domain Name Dispute Resolution Policy ("UDRP"), the Panel finds UDRP precedent to be relevant to this case (except for the clear differences between the policies, such as the absence of a conjunctive requirement for bad faith). See *IOTA Foundation v. Privacy Service provided by Withheld for Privacy ehf /Super Green*, WIPO Case No. [DIO2022-0001](#).

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 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.

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 and recognizable within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here "NFT", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Disputed Domain Name and the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Respondent may demonstrate rights or legitimate interests in a Disputed Domain Name.

Although the overall burden of proof in UDRP proceedings is on 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 Respondent. As such, where a complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted 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.

In addition, the nature of the Disputed Domain Name (Complainant's Mark with the additional term of "nft" which is related to Complainant's business) carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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

C. Registered or Used in Bad Faith

The Panel finds that Respondent registered the Disputed Domain Name in bad faith. Based on the un rebutted evidence that Complainant has submitted, the Panel finds that, at the time the Disputed Domain Name was registered, Complainant and the Mark were well known and that Respondent targeted Complainant when it registered the Disputed Domain Name.

The Panel also finds that Respondent is using the Disputed Domain Name in bad faith. 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. In the present case, the Panel finds that Respondent is using the Disputed Domain Name intentionally to attract, for commercial gain, Internet users to a competing business by creating a likelihood of confusion with Complainant's mark. This is bad faith use under the Policy paragraph 4(b)(iv).

The Panel finds that 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 <nftdraftkings.io> be transferred to Complainant.

/Lawrence K. Nodine/

Lawrence K. Nodine

Sole Panelist

Date: May 7, 2024