

ADMINISTRATIVE PANEL DECISION

S&D Bookmakers Limited v. Andrew Bridger
Case No. D2022-1213

1. The Parties

The Complainant is S&D Bookmakers Limited, United Kingdom (“United Kingdom” or “UK”), represented by BDB Pitmans LLP, United Kingdom.

The Respondent is Andrew Bridger, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <sdbookmakers.com> (the “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 April 6, 2022. On April 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On April 12, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on April 26, 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 April 29, 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 May 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 24, 2022. The Response was filed with the Center on May 23, 2022.

The Center appointed Nick J. Gardner as the sole panelist in this matter on June 13, 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.

On July 4, 2022 the Panel issued a procedural order (the “Procedural Order”) in the following terms:

“Background

The Panel has reviewed the Complaint and the Response. The Panel notes the Complaint describes the Respondent as an ex-employee of the Complainant. The Response raises a large number of matters not referred to in the Complaint, which would appear to indicate the relationship between the Complainant and the Respondent is more complex than that description suggests. These include by way of example the Respondent’s alleged family connections with the founders of the Complainant, the existence of various previous proceedings between the Respondent and the Complainant and the settlement of those proceedings, the Complainant’s alleged consent to the Respondent’s registration of the domain name at issue, and the status and relevance of SD Bets Limited and its website. The Panel would find it helpful to understand the Complainant’s position in regard to all such matters.

Procedural Order

The Complainant is granted until July 14, 2022 to file a Reply, dealing only with matters raised in the Response. The Reply should not exceed 5,000 words in length. The Panel will then consider whether any supplementary filing from the Respondent is appropriate and stipulate a date for any such supplementary filing and for its decision.”

On July 14, 2022 the Complainant filed a Reply pursuant to the terms of the Procedural Order, The Panel indicated to the Parties on July 15, 2022 that it did not require any further filings and that it would provide its decision by July 22, 2022.

4. Factual Background

It is convenient to say that this case involves a complex dispute which includes, or has included, matters outside the scope of the Policy. The Panel has not been provided with all material relating to the wider dispute and at the same time has been provided with a large quantity of other material that is of peripheral relevance at best. The Panel considers the following to be the main points of relevance in terms of the factual background.

The Respondent is a company which trades as a bookmaker. “Bookmaker” in this context means an organization or a person that accepts and pays off bets on sporting and other events at agreed-upon odds. It has traded since 1966 initially under the name “Speechley & Dewey Bookmakers”, and since February 18, 1988 as S & D Bookmakers., It has nine retail premises in various locations in the UK and also promotes its business via its website at “www.sdbet.co.uk” and via social media. It also offers on-course betting facilities at various horse racing tracks in the UK. The Complainant also has an associated company (it appears to have common shareholders) called SD Bets Limited which also provide betting services.

The Complainant has a UK registered Trade mark for “S&D BOOKMAKERS” No. UK00003725721 registered in Classes 9, 38, and 41 on April 29, 2022 (the “S&D BOOKMAKERS trademark”). This date is after the date the Complaint was filed.

The Respondent is an individual who has family connections with the Complainant. His uncle is the Managing Director of the Complainant and it appears his mother is about to inherit a shareholding in the Complainant. He was employed by the Complainant between July 17, 2016 and October 28, 2020 when he resigned. It is not clear to the Panel what his responsibilities as employee involved. The Respondent registered the Disputed Domain Name on June 4, 2020 whilst employed by the Complainant.

The Disputed Domain Name now resolves to a website which is very rudimentary in nature but which is entitled on its landing page “Simon Drew Art and Bookmakers”. There is no explanation on the website of who Simon Drew is (if he is a real person) or what he does. The “about us” page states “Simon Drew Art

and Bookmakers was born in 2014 and continues to grow from strength to strength. With over 40 years combined experience in the creative industry, you can trust our knowledge and opinion when considering your own future in this field. Speak to us today”.

5. Parties' Contentions

A. Complainant

The Complainant says that it has trademark rights in the name “S&D Bookmakers” and that the Disputed Domain Name is identical or confusingly similar to this trademark.

The Complainant says that the Respondent has no rights or legitimate interests in the term “sdbookmakers”. It says such use as the Respondent has made of the Disputed Domain Name since his employment ceased is pretextual and does not represent genuine business use.

The Complainant says the Disputed Domain Name was registered and is being used in bad faith. It says the Respondent was a full-time employee of the Complainant from July 17, 2016 to October 28, 2020 and he registered the Disputed Domain Name during the time that he was employed by the Complainant. The Respondent was aware of the Complainant's rights in the Mark due to his employment with the Complainant and the reputation and goodwill of the Complainant and the Mark, but nonetheless registered the Disputed Domain Name in his own name.

The Complainant relies upon the fact that the Respondent has asked for a substantial valuable consideration in excess of any foreseeable out-of-pocket expenses associated with the registration for the transfer of the Disputed Domain Name. In this respect, it refers to a letter from the Respondent dated November 30, 2020 in which it says the Disputed Domain Name was offered for sale for a price of GBP 5,000.

The Complainant also relies on the facts that:

(1) it filed Trade mark opposition proceedings to an application filed at the UK IPO by the Respondent for the mark SDBOOKMAKERS – UK IPO Trade mark application No. UK00003720654 in Class 41 in respect of “Betting services; Betting exchange services; Sports betting services; Horses (Betting on); Betting shop services; Online sports betting services”. This application was filed on November 11, 2021 and withdrawn on June 22, 2022 after commencement of opposition proceedings by the Complainant.

(2) It filed Company Names Tribunal proceedings objecting to the incorporation by the Respondent of a company called SD Bookmaking Services Limited at Companies House in the United Kingdom. The Respondent filed the relevant application on November 6, 2021 and then changed the name of the company to AJ Reading and Publishing Limited after the Complainant commenced Company Names Tribunal proceedings.

B. Respondent

The Respondent has filed a detailed Response which contains many matters which are at best of peripheral relevance. It is extremely lengthy (it appears to exceed the applicable word count provided by the Supplemental Rules). He has also cited a large number of previous UDRP cases many of which seem to the Panel to be irrelevant or misunderstood by the Respondent. The Panel proposes to only focus on the main points of relevance the Respondent makes, which are as follows.

The Respondent accepts the Disputed Domain Name is similar to the term “S&D Bookmakers”. He denies it is confusingly similar given the omission of the ampersand and how he is using the Disputed Domain Name which he says is “to host a website relating to an art venture which he is pursuing”.

The Respondent says his mother is set to become a major shareholder in the Complainant, in accordance with the will(s) of her parents, the late Alan and Judith Speechley. The Respondent says he would not do anything which would affect, devalue, or intervene with her business. He also says he is set to become a major shareholder in the Complainant (it is not clear to the Panel exactly how he says this will occur) and it would not make commercial sense for any party involved to tarnish, devalue, intervene, or meddle with the Complainants business.

The Respondent says that “the purported associated company of the Complainant, SD Bets Limited, is in fact a rival and/or competitor to the Complainant. The only notable link between the Complainant and SD Bets Limited is that the Managing Director of the Complaint, Robert Speechley, is also the sole shareholder of SD Bets Limited”.

The Respondent says that “90% of the Complainant’s customers are over the age of 70 and the vast majority of those are unable or unwilling to use computers for gambling, they prefer to gamble in person in one of nine betting shops. The Complainant’s website is for informational purposes only and bets cannot be placed online. The majority of customers, public or Internet users are highly unlikely to know the existence of the Complainant’s website unless you live in the Peterborough, United Kingdom, area or have come into contact with Mr. Speechley himself. Save to say, the online traffic the Complainant receives on its informative website is minuscule, for the extremely small percentage of users who do happen to visit both the Complainants website and the contested domain, which its denied that this would ever occur provided that the Complainants customers are not aware of the existence of the contested domain...”.

The Respondent submits that the term “bookmaker”, in a gambling sense, is a term which is no longer broadly adopted by modern day society and refers to an alternative dictionary definition which also says it can mean “a printer binder or designer of books”.

The Respondent says that “Indefinite consent was provided by the Complainant and its directors to purchase, register and own the contested domain. The Complainant raised no issues as to its registration or showed no desire, in part or at all, to register the domain itself. You will see from ANNEX 7 a conversation between Mr. Robert Speechley and the Respondent on 4 June 2020 discussing the domain and no issues are raised, in fact, Mr. Speechley refers to the Respondents experiments with the domain, which involved creative arts, as ‘excellent’. The Panel will note that the Complainant or its directors did not raise any issue despite having knowledge of its registration at the earliest stage, the Panel will also note that the Complainant did not reply to the Respondents message with a request to transfer the domain or show any displeasure. The Complainant has pleaded that this was not authorised, this can only be seen as a fabrication given the attached evidence. The domain was purchased with the Respondents own money, whilst benefiting from the Coronavirus Job Retention Scheme (‘CJRS’), which made it illegal to conduct work for your employer, and of his own free will. The Complainant made no attempt to acquire the domain, even for the nominal sum the contested domain cost. This is because the Complainant had no intention of owning, registering or possessing this domain in any capacity”.

The Respondent says “There is also a contract in existence between the Complainant and the Respondent which is signed and dated 14 December 2020, the purpose and intention of the agreement was a declaration that the Respondent did not possess any property, intellectual or otherwise, belonging to the Complainant and, the Complainant was satisfied that all property had been returned and duly signed. The wording states at the end of the agreement ‘I hereby declare that Andrew James Bridger, former employee, has no S&D Bookmakers property in his possession’. If there was a genuine issue regarding the domains and its ownership, this declaration should not have been signed by the Complainant. This document can not be disclosed due to the Respondent’s obligations toward the COT3 agreement signed in February 2022 (see below). The Complainant is clearly aware that this document exists but has chosen to withhold this from its complaint, this is clearly disingenuous and in bad faith”.

He then say “Secondly, the Respondent further submits that the [Complainant] is prevented from bringing these proceedings before the panel by way of issue estoppel. The Managing Director of the Complainant and the Respondent’s relationship started to break down on 11 June 2020 and this became irrevocable on 3

July 2020. On 28th October 2020, the Respondent deemed himself to be constructively and unfairly dismissed and brought civil proceedings against the Complainant. Proceedings lasted one and a half years and concluded in February 2022 with a settlement. In doing so, the parties avoided a seven-day trial which was due to begin in September 2022. The COT3 agreement was inclusive of all disputes involving the parties. This, in other words, was the end of a deep-rooted relationship and both parties were settling on the basis that this was the conclusive end of all matters. It is implied by way of the terms (express and implied) of the agreement, surrounding correspondence, the nature and severity of the dispute that this was the conclusive end to all matters. Whilst it can not be disclosed, the Complainant states in an email dated 3 December 2020 that '[We] have sought to achieve a sensible and reasonable resolution to this matter, that ensures the matter is drawn to a complete close'. The Complainant goes on to say "[The Complainant] wish to achieve a full and final settlement in relation to this matter. The domain names were a substantial part of the dispute and on this basis the Respondent submits that this was the final settlement between the parties. The Complainant was happy to settle on the basis that the contested domain were not included and thus the matter of the contested domain has already been addressed and concluded. It now seems the Complainant is seeking "Plan B" (see below). The Complainant has been eligible to issue [UDRP] proceedings from the moment it knew the Respondent registered them, in this instance 4 June 2020. Instead, the Complainant has waited almost two years until the parties signed a COT3 agreement when the Respondent is now put at a significant disadvantage in defending himself in these proceedings. This can only be seen as a tactical ploy and certainly not in good faith, the Complainant should be barred from bringing these proceedings".

The Respondent says "As well as having legal rights to the contested domain, the Respondent also has a legitimate interest. The Respondent has numerous commercial ties within the art, fashion, music, bookmaking and novel industry. A few examples being life long friend Joseph Bernard, who is a creative producer and lecturer at the prestigious Royal College of Art (London) (see ANNEX 8 for his Linked In page), life long friend Harrison Bernard (Joseph's brother) who is known as Haich Ber Na, a professional artist, signed musician and Author/bookmaker (see ANNEX 9), Daniel Olafe, author/bookmaker and artist and Richard Mutombo, artist, musician and author/bookmaker (see ANNEX 10), are colleagues of the Respondent and have been planning to build a creative platform online which includes; (1) An avenue to promote their work in one singular space (2) To create a service which allows smaller artists, authors or bookmakers to purchase a one-to-one mentoring session with one of the aforementioned artists. This has been a long term ambition of the Respondent. ANNEX 11 shows that the WhatsApp Group which started in 26 December 2018, it is inclusive of all the above members who are involved in this project – 'Simon Drew Art and Bookmaking' (see ANNEX 12). We have made significant preparations in developing this idea; we have conducted market research, drawn up a business plan and created a website (see ANNEX 13). ANNEX 13 illustrates the folder in which all ideas, concepts, plans are kept. The Panel will note that there is 391 items within this folder, which is a significant amount of documents".

The Respondent denies offering to sell the Disputed Domain Name. He says in relation to the relevant letter "The panel will note that the letter reads "if you wish to purchase. I will accept no less than [GBP] 5,000" ". Firstly, this is not an offer for sale, this is an invitation to treat and is most certainly not a demand. Within English contract law there is a clear and well established distinction between an offer and an invitation to treat.

C The Complainant's Reply

In the main the Reply disputes the relevance of much of what the Respondent has said and reiterates the basis the Complainant says it has for its Complaint. The Reply does go into further detail about the basis on which the Disputed Domain Name was registered (see below). The Reply also relies on the fact that the Complainant's application for a registered trademark for S&D Bookmakers has now been granted (see below).

6. Discussion and Findings

Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with 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 respect of the Disputed Domain Name;
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has rights in the S & D Bookmakers trademark. However, this trademark only issued subsequent to the date the Complaint was filed and is insufficient to establish standing for the purposes of the Policy (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at sections 1.1.3 and 1.1.4). It seems to the Panel likely that the Complainant nevertheless may have unregistered trademark rights in the term "S&D Bookmakers" sufficient to establish standing - although the evidence as to this issue is relatively limited. Given the Panel's conclusion on bad faith (see below) the Panel does not need to reach a conclusion on this issue.

B. Rights or Legitimate Interests

In view of the Panel's finding in relation to bad faith (see below) the Panel does not need to determine this issue.

C. Registered and Used in Bad Faith

It is well established that the requirements set out in paragraph 4(a)(iii) of the Policy are conjunctive. For present purposes, the Panel considers the first hurdle the Complainant has to overcome is in showing that the registration of the Disputed Domain Name was in bad faith. The Respondent denies this and says that he registered the name with the consent of the Complainant and for purposes of his own. The Respondent says as follows:

"Indefinite consent was provided by the Complainant and its directors to purchase, register and own the [Disputed Domain Name]. The Complainant raised no issues as to its registration or showed no desire, in part or at all, to register the [Disputed Domain Name] itself. You will see from ANNEX 7 a conversation between Mr. Robert Speechley and the Respondent on 4 June 2020 discussing the [Disputed Domain Name] and no issues are raised, in fact, Mr. Speechley refers to the Respondent's experiments with the [Disputed Domain Name], which involved creative arts, as 'excellent'." (Response section 5B(1)).

The Panel views with considerable scepticism many aspects of the Respondent's account in this regard (see discussion in relation to Reverse Domain Name Hijacking below). However, the fundamental point that the registration was effected in the Respondent's own name with the consent of the Complainant would appear to be likely to be correct. It is in the Panel's opinion important to consider carefully exactly what the Complainant says in this regard, as follows:

"The Respondent registered the Disputed Domain Name on 4 June 2020 during the time that he was employed by the Complainant. The Respondent was a full-time employee of the Complainant from 17 July 2016 to 28 October 2020. The Respondent resigned from his employment on 28 October 2020. The Respondent was aware of the Complainant's rights in the Mark due to his employment with the Complainant and the reputation and goodwill of the Complainant and the Mark, but nonetheless registered the domain name in his own name while employed by the Complainant." (Amended Complaint section 12C).

This explanation has however been expanded upon in the Reply:

“The Respondent was an employee of the Complainant from 17 July 2016 to 28 October 2020. The Respondent was required to follow all reasonable instructions of the Complainant and any work that he produced arising from his employment belongs to the employer, namely the Complainant. A colleague mentioned to the Managing Director of the Complainant that the [Disputed Domain Name] was available and, at the time the Respondent was working for the Complainant and had a good relationship with the Managing Director of the Complainant. The Managing Director of the Complainant asked the Respondent to check if the [Disputed Domain Name] was available and the Respondent confirmed that it was and that it only cost [GBP] 1 so the Managing Director of the Complainant asked him to purchase it and register it on behalf of the Complainant as he understood better how these things worked. The Managing Director then asked him to design some of the content which is what the Respondent refers to in the WhatsApp message included by the Respondent in his Response. The Respondent was never given consent to use the [Disputed Domain Name] for himself, only to provide some content on behalf of S & D Bookmakers Ltd in his role as an employee” (Reply section 12).

and

“It is not unusual for the [Disputed Domain Name] of a business to be registered in the name of an employee or a website designer. This does not mean that the rights are owned by the employee, who would effectively be holding the [Disputed Domain Name] on trust for the company. A true test of this is the ownership of the trademarks of the business. The Complainant did contact the registry explaining that it had a rogue employee refusing to give control of the [Disputed Domain Name] and asked what the procedure would be to get the [Disputed Domain Name] back” (Reply section 22).

And

“It is submitted that no business would allow an ex-employee to keep the domain name that is critical to its business” (Reply section 23).

And

“The registration of the [Disputed Domain Name] may have been made in the name of the Respondent. However, it was always understood by the [Parties] that it was for the purposes of the Complainant’s business” (Reply section 34).

And

“It would make no sense for a business to allow an ex-employee to retain and use a [Disputed Domain Name] for business that it has had rights to since at least 18 February 1988 and for which it has a registered trade mark” (Reply section 35).

It seems to the Panel that two alternative scenarios are possible in this type of situation: (i) the Respondent registered the Disputed Domain Name as part of an arrangement (whether or not contractual) that gave rise to some kind of requirement or obligation that the registration was to be effected in the name of the Complainant but the Respondent failed to give effect to this requirement or obligation, and wrongly registered the Disputed Domain Name in his own name; or (ii) it was agreed that the Respondent was to register the Disputed Domain Name in his own name but make it available for use by the Complainant. It seems to the Panel that scenario (i) may readily give rise to a case that the registration was effected in bad faith whilst the situation under scenario (ii) does not. There may also be situations where what took place or was agreed is unknown or unclear and any evaluation would then need to be very fact specific. In relation to these different situations see *The Thread.com, LLC v. Jeffrey S. Poploff*, WIPO Case No. [D2000-1470](#) where the Panel stated “Here, Respondent was happily employed at the time he registered the Domain Name, and he registered the Domain Name with the full consent and knowledge of Complainant. (In that connection, Complainant’s assertion that it did not know that Respondent was registering the Domain Name in his

personal name is not credible.) Thus, he did not have the requisite bad faith when he registered the Domain Name, which is an express requirement of the Policy”. Contrast *Profilink Ltd. v. Ianko Pavlov Dingofov*, WIPO Case No. [D2013-1241](#) where the panel stated: “As mentioned in the factual description, the Panel is of the opinion that when the Respondent registered the Domain Name, he clearly was doing so for the Complainant. In other cases arising out of similar facts, Panels have refused to find bad faith registration because the registration was made with the consent or at the request of the trademark owner. See e.g. *ITMetrixx, Inc. v. Kuzma Productions*, WIPO Case No. [D2001-0668](#); *The Thread.com, LLC v. Jeffrey S. Poploff*, WIPO Case No. [D2000-1470](#). In those cases, though, the respondent was expected to register the domain name under its own name.”

The question for the present Panel is what is the relevant factual position? The Panel has concluded that on the evidence before it and in the light of what the Complainant says in the Reply (above) and notwithstanding the Respondent’s somewhat incongruous statements (see below), the situation is more likely than not to correspond to scenario (ii) above. On balance it seems to the Panel that the registration of the Disputed Domain Name in the Respondent’s own name was part of an arrangement that the Complainant was aware of and to which the Complainant consented, whilst perhaps not appreciating the full implications of arranging matters in this way. If that is so, the Panel does not see how it can be said to be in bad faith within the meaning of the Policy. It seems more likely than not that the Complainant asked the Respondent to effect the registration in his own name but for the Complainant’s benefit/use, because, as the Reply puts it, “he understood better how these things worked”. It may well be that the circumstances of the registration and what took place between the Complainant and the Respondent do lead to obligations on the Respondent as to what he can and cannot do with the Disputed Domain Name once his employment ceased but that is not a matter for the Policy if the original registration was not in bad faith. It may be that the Complainant was not aware of the implications of this arrangement, and did not consider the possibility that the Respondent would hold on to the registration even after the Parties no longer had an amicable working relationship. That however does not alter the analysis as to whether the registration itself was not effected in bad faith.

Accordingly, the Panel is unable to find that the third condition of paragraph 4(a) of the Policy has been fulfilled.

The Panel would also add that if it had not reached this conclusion it would have likely concluded that the wider matters in dispute mean that the Complaint would not be suitable for resolution under the Policy. The Panel considers the procedures under the Policy are generally not suitable for resolving issues where disputed questions of fact arise and where discovery, oral evidence, and cross examination would all assist in reaching a fair conclusion. That is the case here and in addition there have been other proceedings between the Parties which appear now to have been settled and the effect of those proceedings, their settlement and their relevance all appear to be in dispute. These are matters where the Panel has not been provided with all relevant information and which in any event are likely outside the Panel’s jurisdiction. In view of the Panel’s finding as to bad faith registration (which is a discreet point – see above) the Panel considers it can reach a conclusion without needing to consider these wider and more problematic areas.

7. Reverse Domain Name Hijacking

Reverse Domain Name Hijacking (“RDNH”) is defined under the Rules as “using the Policy in bad faith to attempt to deprive a registered domain-name holder of a domain name”.

Paragraph 15(e) of the Rules provides that, if “after considering the submissions the panel finds that the complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or was brought primarily to harass the domain-name holder, the panel shall declare in its decision that the complaint was brought in bad faith and constitutes an abuse of the administrative proceeding”.

As set out in the [WIPO Overview 3.0](#), section 4.16, reasons articulated by UDRP panels for finding RDNH include: (i) facts which demonstrate that the complainant knew it could not succeed as to any of the required

three elements – such as the complainant’s lack of relevant trademark rights, clear knowledge of respondent rights or legitimate interests, or clear knowledge of a lack of respondent bad faith (such as registration of the disputed domain name well before the complainant acquired trademark rights; (ii) facts which demonstrate that the complainant clearly ought to have known it could not succeed under any fair interpretation of facts reasonably available prior to the filing of the complaint, including relevant facts on the website at the disputed domain name or readily available public sources such as the Whois database; (iii) unreasonably ignoring established Policy precedent notably as captured in this [WIPO Overview](#) – except in limited circumstances which *prima facie* justify advancing an alternative legal argument; (iv) the provision of false evidence, or otherwise attempting to mislead the panel; (v) the provision of intentionally incomplete material evidence – often clarified by the respondent; (vi) the complainant’s failure to disclose that a case is a UDRP re-filing; (vii) filing the complaint after an unsuccessful attempt to acquire the disputed domain name from the respondent without a plausible legal basis; (viii) basing a complaint on only the barest of allegations without any supporting evidence.

The Panel does not consider the present case warrants a finding of RDNH. In particular although the Complaint does not succeed the Panel regards the Respondent’s explanations for his subsequent conduct and his use of the Disputed Domain Name with considerable scepticism. There is no obvious reason why the Respondent should have any need or use for the Disputed Domain Name in any context unrelated to the Complainant’s business and the Respondent has not provided any credible explanation that alters this fundamental point. The Respondent’s original dealings with the Complainant when he registered the Disputed Domain Name do not seem to support his case that it was for use in relation to leisure activities unconnected with the Complainant. Specifically the Respondent has placed in evidence a WhatsApp exchange with the Complainant’s Managing Director, Mr. Speechley. In that exchange Mr. Speechley refers to what appears to be some sort of artwork the Respondent has produced saying “I do like the block of horses on this one in the top right” – this message is accompanied by an image which comprises a red background with overlaid text and a group of racehorses racing in the top right. The image quality in the relevant exhibit is too poor to make out the wording of all of the text it contains but the word “Newmarket” (a famous English racecourse) can be made out. It seems to the Panel more likely than not that this is some sort of draft proposal for content relevant to the Complainant’s business.

More generally after his employment with the Complainant ended the Respondent sought to incorporate a company called SD Bookmaking Services Limited and sought to apply for trademark protection for the term “sdbookmakers” in respect of betting services. The Respondent has failed to provide any explanation of why either of these events occurred. None of this is consistent with the Respondent’s supposed purposes which he says have nothing to do with gambling. Furthermore the Panel does not accept the Respondent’s argument that the word “bookmaker” is archaic in relation to gambling and is nowadays likely to be generally used to describe either an author or publisher. The Panel as a native English speaker recognises the primary usage of “bookmaker” in modern English as referring to an organization or a person that accepts and pays off bets on sporting and other events at agreed-upon odds. A simple Internet search confirms that usage is common and very widespread. It is also the case that the term “bookmaker” can describe a person who physically manufactures a book, in the sense of printing and binding the book, but there is no evidence of that being the Respondent’s business. The term is not in the Panel’s experience normally used in English to describe either an author or publisher of a book.

Equally fundamentally there is no explanation from the Respondent as to why the Respondent should require the letters “sd” in the Disputed Domain Name when his initials are “ab”. The Respondent conspicuously fails to explain why it is that the website to which the Disputed Domain Name now resolves is entitled “Simon Drew Art and Bookmakers”. That website is rudimentary in nature but the Respondent has provided no information at all as to who Simon Drew is or why the Respondent has a website which relates to him. Instead he has provided what seems to the Panel to be wholly irrelevant information about a number of other people he says he is collaborating with. Overall it seems to the Panel that this reference to “Simon Drew” may be nothing more than “an after-the-fact pretext intended only to justify misuse of the Complainant’s mark” – see *National Organization for the Reform of Marijuana Laws v. Industry Internet, LLC and Anthony Disano*, WIPO Case No. [D2002-0938](#).

The Panel is also not persuaded by the Respondent's argument that he did not offer to sell the Disputed Domain Name as he says his communication was technically an "invitation to treat" – which seems to the Panel to be an overly legalistic way of looking at the relevant correspondence.

Overall though on the facts of this case the Complaint does not succeed, the Panel can well see why the Complainant objects to the Respondent's conduct and continued use of the Disputed Domain Name. The Panel therefore declines to make a finding of RDNH.

8. Decision

For the foregoing reasons, the Complaint is denied.

The Respondent's request for a finding of Reverse Domain Name Hijacking is denied.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: July 22, 2022