

## **ADMINISTRATIVE PANEL DECISION**

Red Bull GmbH v. Privacy Service Provided by Withheld for Privacy ehf /Intan Zailani, Waktogel  
Case No. D2022-2294

### **1. The Parties**

Complainant is Red Bull GmbH, Austria, represented by TALIENS Partnerschaft von Rechtsanwälten mbB, Germany.

Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland /Intan Zailani, Waktogel, Thailand.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 24, 2022. On June 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 24, 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 to Complainant on July 5, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on July 6, 2022.

The Center verified that the Complaint together with the 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 Respondent of the Complaint, and the proceedings commenced on July 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 28, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 9, 2022.

The Center appointed Robert A. Badgley as the sole panelist in this matter on August 12, 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**

Complainant has been selling energy drinks for more than 20 years under the trademark RED BULL. In 2020, Complainant sold more than 7.9 billion units of RED BULL drinks in 173 countries, and experienced gross sales in excess of EUR 7.6 billion. There is no doubt that RED BULL is a world-famous trademark, and has been so for several years. This has been acknowledged in numerous prior UDRP decisions.

Complainant holds many trademark registrations in more than 180 jurisdictions worldwide for RED BULL, including European Union Trade Mark Reg. No. 000052803, registered on March 16, 2001. Complainant's main website is located at the domain name <redbull.com>.

Complainant's marketing of RED BULL is extensive. Complainant has sponsored numerous athletic and cultural events using the RED BULL trademark. Since 2008, Complainant has owned the domain name <redbullcontentpool.com>, a business-to-business service described at the website as follows:

"The Red Bull Content Pool is the global B2B self-service media & news platform for press, journalists and business partners. We offer photos, videos & news about our Red Bull events, partner events and athletes - all free and with all rights cleared for editorial and news purposes. On the Red Bull Content Pool you can find global news, exclusive interviews, more than 300,000 high-quality photos and over 22,000 HD videos, from thrilling sports to lifestyle, and from culture to ground-breaking photography."

The Domain Name was registered on January 21, 2021. The Domain Name resolves to a fairly rudimentary lottery website, which appears commercial in nature (there are various credit card logos and other payment-method logos displayed at the site), and there is a "Contact Us" link which invites the site visitor to divulge certain personal information.

On August 24, 2021, Complainant's representative sent a missive to the Registrar, since Respondent used a privacy service, asserting Complainant's trademark rights and asking that the missive be forwarded to Respondent. According to Complainant, the Registrar confirmed that the letter was sent to Respondent. Respondent did not reply to Complainant's representative.

#### **5. Parties' Contentions**

##### **A. Complainant**

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Name.

##### **B. Respondent**

Respondent did not reply to Complainant's contentions.

## 6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

### A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the trademark RED BULL through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to that mark. The dominant element of the mark – RED BULL – is entirely reproduced in the Domain Name, and is clearly recognizable within the Domain Name, notwithstanding the additional word “pools”.

Complainant has established Policy paragraph 4(a)(i).

### B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable 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; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are 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 or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name. Respondent has not come forward, either in response to Complainant’s missive (via the Registrar) or in this proceeding, to dispute the allegations and evidence put forth by Complainant, or to assert and prove any *bona fides* Respondent might have vis-à-vis the Domain Name. It is undisputed that Complainant has given Respondent no license or authority to use its marks in a domain name or any other manner. It is also clear and undisputed that Complainant’s RED BULL mark is world famous.

The Panel concludes that Complainant has established Policy paragraph 4(a)(ii).

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation”, are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section. On this undisputed record, the Panel finds it far more likely than not that Respondent was well aware of the famous RED BULL mark when registering the Domain Name.

The Panel also finds that Respondent's use of the Domain Name to host a commercial online lottery constitutes bad faith within the meaning of the above-quoted Policy paragraph 4(b)(iv), as an intentional attempt to attract, for commercial gain, Internet users by creating a false and confusing association between the Domain Name (and its associated website) and Complainant's famous trademark.

Complainant has established Policy paragraph 4(a)(iii).

## **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 <redbullpools.com> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: August 26, 2022