

ADMINISTRATIVE PANEL DECISION

Tipico Group Ltd. v. davut tuerk, davuttuerk
Case No. D2024-5092

1. The Parties

The Complainant is Tipico Group Ltd., Malta, represented by Boehmert & Boehmert, Germany.

The Respondent is davut tuerk, davuttuerk, United Kingdom.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 10, 2024. On December 11, 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 (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 December 11, 2024, 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 amendment to the Complaint on December 13, 2024.

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 the Respondent of the Complaint, and the proceedings commenced on December 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 2, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 6, 2025.

The Center appointed Federica Togo as the sole panelist in this matter on January 13, 2025. 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

It results from the Complainant's undisputed allegations that it is part of the Tipco group of companies, an international provider of sports betting services and virtual games, headquartered in Malta. It is active in the market for sports betting in the German market with over 1,000 betting shops throughout the country. The complainant was founded in 2004 and has branches in Germany, Austria, Croatia, Gibraltar, United Kingdom and Malta.

The Complainant is the registered owner of some trademarks for TIPICO, e.g., European Union trademark registration No. 003939998, registered on September 23, 2005, for services in class 41.

It uses among others the domain name <tipico.de> as official website.

The disputed domain name was registered on November 12, 2024. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolves to a website, prominently displaying without authorization the Complainant's trademark and logo and showing in its design similarities with the Complainant's official website.

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 that the disputed domain name is identical/confusingly similar to the Complainant's TIPICO trademark since it identically adopts the Complainant's TIPICO trademark and merely adds the Top-Level Domain ("TLD") ".pro".

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, it has not licensed or otherwise permitted the Respondent to use any of its trademarks or to register the disputed domain name incorporating an approximation to its TIPICO trademark. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. On the contrary, the Respondent's behavior shows a clear intent to obtain an unfair commercial gain, with a view to misleadingly diverting consumers or to tarnish the trademarks owned by the Complainant. The disputed domain name is used to retrieve to a website prominently displaying the Complainant's registered TIPICO trademark at the top-left of the website being a position where Internet users expect to find a reference to the website provider. In addition, this website under the disputed domain name shows in its design similarities with the Complainant's official website.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. According to the Complainant, it is evident from the Respondent's use of the disputed domain name that the Respondent knew of the Complainant's TIPICO trademark when registering the disputed domain name. The disputed domain name is clearly freeriding the renown and reputation of the Complainant's TIPICO trademark by using a domain name which identically adopts the well-known TIPICO trademark. The website is imitating the design of the Complainant's official website and is prominently using the Complainant's registered trademark in the website title.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”. Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

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

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

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.

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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Finally, the TLD “.pro” of the disputed domain name may be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#) at section 1.11.1.

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 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.

Moreover, the Panel notes that the nature of the disputed domain name carries a high risk of implied affiliation, since the disputed domain name is identical to the Complainant's trademark TIPICO and that the trademark TIPICO is not a combination of terms that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant. Generally speaking, previous UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation (see [WIPO Overview 3.0](#), section 2.5.1). The Panel shares this view.

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.

One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

In the present case, the Panel notes that it results from the Complainant's documented allegations that the disputed domain name resolved to a website prominently displaying the Complainant's trademark and logo. For the Panel, it is therefore evident that the Respondent positively knew the Complainant's mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant's trademark when it registered the disputed domain name.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

On this regard, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- (i) the nature of the disputed domain name (identical to the Complainant's mark);
- (ii) the content of the website to which the disputed domain name directs, prominently displaying the Complainant's trademark and logo and showing in its design similarities with the Complainant's official website;
- (iii) a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice of the disputed domain name;

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 <tipico.pro> be transferred to the Complainant.

/Federica Togo/

Federica Togo

Sole Panelist

Date: January 24, 2025