

ADMINISTRATIVE PANEL DECISION

Sun International (IP) Limited v. Privacy service provided by Withheld for Privacy ehf / NE0 VIP
Case No. D2022-1788

1. The Parties

The Complainant is Sun International (IP) Limited, South Africa, represented by Adams & Adams Attorneys, South Africa.

The Respondent is Privacy service provided by Withheld for Privacy ehf, Iceland / NE0 VIP, Viet Nam.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 18, 2022. On May 18, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 18, 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 May 19, 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 May 24, 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 June 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2022. The Respondent sent an email to the Center on June 11, 2022 but did not submit a Response. Accordingly, the Center notified the Parties on July 8, 2022 of the commencement of panel appointment process.

The Center appointed Steven A. Maier as the sole panelist in this matter on July 19, 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

The named Complainant is a public company incorporated under the laws of South Africa. It is a wholly-owned subsidiary of Sun International Limited, which is an operator of hotels, resorts and casinos. For the convenience of reference in this Decision, the named Complainant and Sun International Limited are collectively referred to as the Complainant in the remainder of this Decision.

The Complainant offers online sports betting and casino services under the name and trademark SUNBET.

The Complainant is the owner of registrations for the trademark SUNBET in various territories in Africa and South America. Those registrations include, for example, South Africa trademark registration number 2012/24239 for the word mark SUNBET, registered on September 7, 2012 in International Classes 9, 28, 21 and 42.

The disputed domain name was registered on September 12, 2021.

The Complainant exhibits evidence that the disputed domain name has resolved to a website which includes sponsored links to websites offering sports betting and related services.

5. Parties' Contentions

A. Complainant

The Complainant states that it launched its SUNBET sports betting services in November 2013 and operates a portal at "www.sunbet.co.za". It states that it offers approximately 100,000 markets on up to 5,000 events covering 40 sports every week. It also provides 68 casino-type games. It states that it operates a mobile app as well as the website referred to above and has accepted betting stakes in excess of ZAR 10 billion since the commencement of its activities. The Complainant also submits evidence of media and industry recognition of its business and of a significant social media presence on platforms including Facebook, Twitter, and Instagram. The Complainant submits that it has gained significant common law rights in the name SUNBET as a result of these matters, in addition to its registered rights.

The Complainant submits that the disputed domain name is identical or confusingly similar to its SUNBET trademark. It contends that the disputed domain name wholly incorporates that trademark and that the Top-Level Domain ("TLD") ".club" does not affect the relevant comparison.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has never licensed or authorized the Respondent to use its SUNBET trademark and that the Respondent has not commonly been known by that name. The Complainant submits that the Respondent is using the disputed domain name for the purpose of a parked page which offers sponsored links to betting services which are competitive with the Complainant's and is therefore capitalizing on the value of the Complainant's trademark.

The Complainant submits that the disputed domain name was registered and is being used in bad faith. The Complainant contends that the disputed domain name wholly incorporates its SUNBET trademark and takes unfair advantage of its trademark rights by redirecting to a website which reflects its own specific areas of interest. The Complainant further submits that the use of the TLD ".club" will further imply a connection with the Complainant, or with its loyalty club programme which offers rewards and benefits to its users. Specifically, the Complainant submits that the Respondent is using the disputed domain name, which is

confusingly similar to its SUNBET trademark, to mislead Internet users into believing its website operated by or otherwise connected with the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions, save for its email to the Center dated June 11, 2022 referred to above. That email stated: "Hello I am the owner of the domain sunbet.club. This is our idea, bought 'Domain'. Do I have the right to sell and give to others? What is the wipo.int side problem?"

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical 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; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in respect of the mark SUNBET.

The disputed domain name is identical to that trademark, ignoring the TLD ".club" which is typically to be disregarded for the purposes of comparison.

The Panel therefore finds that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file any formal substantive Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. As further discussed below, the Panel finds that the disputed domain name has been used by the Respondent for a website which targets the goodwill attaching to the Complainant's SUNBET trademark. Such use by the Respondent cannot give rise to rights or legitimate interests on the part of the Respondent and the Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel finds the Complainant's SUNBET trademark to be distinctive of the Complainant and its online sports betting and casino services and that the trademark has acquired a significant reputation in this sector. The Respondent has used the disputed domain name, which is identical to the Complainant's trademark, for the purpose of a website offering sponsored links to services similar to and competitive with the Complainant's services. The Panel accepts the Complainant's contention that the use of the TLD ".club" does not distinguish the disputed domain name from the Complainant's trademark but is more likely to suggest some form of affiliation, whether via the Complainant's loyalty club or otherwise. Since the Respondent has offered no other explanation for its choice of the disputed domain name, the Panel has no

hesitation in inferring in the circumstances that it registered the disputed domain name with the Complainant's SUNBET trademark in mind and for the purpose of taking unfair advantage of the Complainant's goodwill attaching to that trademark.

The Panel finds that, by virtue of the misleading nature of the disputed domain name, Internet users are likely to visit the Respondent's website in the mistaken belief that it is owned or operated by, or otherwise commercially affiliated with, the Complainant. The Panel further infers that the Respondent obtains revenue from the sponsored links on its website and therefore, that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

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 <sunbet.club> be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: August 2, 2022