

ADMINISTRATIVE PANEL DECISION

Flutter Entertainment plc, Rational Intellectual Holdings Limited v. Host Master, Transure Enterprise Ltd
Case No. D2022-2498

1. The Parties

The Complainants are Flutter Entertainment plc, Ireland (the “First Complainant”) and Rational Intellectual Holdings Limited, Isle of Man (the “Second Complainant”), both represented by Demys Limited, United Kingdom.

The Respondent is Host Master, Transure Enterprise Ltd, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <njpokerstars.com> is registered with Above.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 8, 2022. On July 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 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 July 14, 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 July 15, 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 July 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 15, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 16, 2022.

The Center appointed Kaya Köklü as the sole panelist in this matter on August 25, 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 First Complainant is a company incorporated in Ireland, which operates various sports betting and poker brands worldwide. It is listed on the London Stock Exchange as well as on Euronext Dublin.

The Second Complainant is the intellectual property holding company incorporated in Isle of Man. It, *inter alia*, owns the POKERSTARS trademark, which is registered in various jurisdictions, the United States Trademark Registration No. 78542627, registered on February 12, 2008 (Annex 12 to the Complaint).

The Complainants operate several official country-specific websites to which Internet users are redirected when visiting the First Complainant's official website at "www.pokerstars.com" (Annex 6 to the Complaint).

The Respondent is reportedly located in the United States, whereas its true identity remains unknown.

The disputed domain name was registered on November 20, 2020. The language of the Registration Agreement is English.

The screenshots, as provided by the Complainants (Annex 9 to the Complaint) show that visitors of the disputed domain name were redirected either to official websites of the First Complainant and its related companies or to websites operated by competitors, e.g. by resolving to pay-per-click websites, which provide for advertising links to Complainants' competitors.

Meanwhile, the disputed domain name is offered for sale (Annex 10 to the Complaint).

Prior to initiating the present administrative proceeding, the Complainants tried to solve the matter amicably by sending a demand letter to the Respondent on March 17, 2022 (Annex 11 to the Complaint).

5. Parties' Contentions

A. Complainant

The First and Second Complainant request the transfer of the disputed domain name to the Second Complainant.

They are of the opinion that the disputed domain name is confusingly similar to the registered POKERSTARS trademark of the Second Complainant.

Furthermore, they argue that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that that the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Procedural Issues

The Complaint contains a request for consolidation of the First and Second Complainant on the basis that they are related companies with a common grievance against the Respondent.

Taking into consideration that the Respondent has not rebutted the requested consolidation, the Panel finds that the Complainants have established a *prima facie* case that the Complaint can be consolidated based on a common grievance and interested of both Complainants. The Panel is convinced that it is fair and equitable in the circumstances of the case to order the consolidation as requested (see section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Consequently, the Panel accepts the First and Second Complainant in this administrative proceeding and, for the ease of reference, will jointly refer to them as "the Complainant" in the following, whenever appropriate.

6.2. Substantive Issues

According to paragraphs 14(a) and 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable and on the basis of the Complaint where no Response has been submitted.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to the trademark 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 Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complaint. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#).

A. Identical or Confusingly Similar

The Panel finds that the Complainant has registered trademark rights in the mark POKERSTARS by virtue of various trademark registrations worldwide, including a trademark registration in the United States, where the Respondent is reportedly located.

The Panel further finds that the disputed domain name is confusingly similar to the Complainant's registered POKERSTARS trademark, as it fully incorporates the Complainant's trademark. As stated at section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms or letters would generally not prevent a finding of confusing similarity. The mere addition of the letters "nj", does not, in view of the Panel, serve to avoid a finding of confusing similarity between the disputed domain name and the Complainant's POKERSTARS trademark.

Accordingly, the Panel finds that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or legitimate interests, particularly no license to use the Complainant's trademarks within the disputed domain name.

Further, the Panel finds that the disputed domain name, which is confusingly similar to the Complainant's POKERSTARS trademark, carries a risk of implied affiliation or association, as stated in section 2.5.1 of the [WIPO Overview 3.0](#).

In the absence of a Response, the Respondent has failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or provide any other evidence of a right or legitimate interest in the disputed domain name. Taking into consideration the undisputed screenshots as provided by the Complainant in Annexes 9 and 10 to the Complaint, the Panel does not see any basis for assessing a *bona fide* offering of goods or services by the Respondent.

Hence, the Panel concludes that the Respondent does not have a right or legitimate interest in the disputed domain name according to the Policy, paragraph 4(a)(ii) and 4(c).

C. Registered and Used in Bad Faith

In the Panel's view, the Respondent has registered and is using the disputed domain name in bad faith.

At the date of registration of the disputed domain name, the Respondent was obviously well aware of the Complainant's POKERSTARS trademark.

Furthermore, it is obvious to the Panel that the Respondent has deliberately chosen the Complainant's trademark as the distinctive part of the disputed domain name to mislead Internet users in bad faith and to gain illegitimate benefit by freeriding on the notoriety and goodwill of the Complainant's POKERSTARS trademark. The Panel's finding is reinforced given the Respondent's redirection of the disputed domain name to the Complainant's genuine websites, as well as to pay-per-click sites with links associated with the Complainant's services.

Additionally, the Panel finds that the Respondent's failure to respond neither to the Complainant's demand letter of March 17, 2022, nor to the Complaint itself further supports the conclusion that it has registered and is using the disputed domain name in bad faith.

Also, the Panel is convinced that the Respondent has deliberately opted for hiding its true identity in order to prevent an efficient enforcement of legitimate trademark rights by the Complainant.

Taking all facts of the case into consideration, the Panel believes that this is a typical cybersquatting case, which the UDRP was designed to stop. In view of the Panel, the disputed domain name was registered and is being used in bad faith and the Complainant consequently has satisfied the third element of the Policy, namely, paragraph 4(a)(iii) 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 <njpokerstars.com> be transferred to the Second Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: September 8, 2022