

ADMINISTRATIVE PANEL DECISION

DAZN Limited v. Super Privacy Service LTD c/o Dynadot / hayal simsek
Case No. D2022-2798

1. The Parties

The Complainant is DAZN Limited, United Kingdom, represented by Safenames Ltd., United Kingdom.

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America / hayal simsek, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <daznmoment.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 29, 2022. On July 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, 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 August 3, 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 August 4, 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 August 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 7, 2022.

The Center appointed Rodrigo Azevedo as the sole panelist in this matter on September 15, 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 Complainant is a global Internet sports subscription video streaming service, operating across a multitude of digital platforms, including mobile devices, tablets, game consoles and smart TVs, which was founded in 2015 and launched in 2016.

The Complainant obtained registrations for the trademarks DAZN (International Trademark Registration Number 1335316, registered on March 2, 2016; Australian Trademark Registration No. 1892692, registered on June 8, 2017, with a priority date of December 8, 2016) and DAZN MOMENT (European Union Trademark Registration Number 018597625, registered on March 11, 2022).

The Complainant is also the owner of numerous domain names comprising the DAZN trademark, such as <dazn.fr>, <dazn.us>, <dazn.in>, <dazn.sg>, and <dazn.co.za>, all registered in June 2016.

The Respondent registered the disputed domain name on November 9, 2021.

The disputed domain name does not resolve to any active website, but just to a domain name e-commerce platform, where the disputed domain name is being offered for sale.

5. Parties' Contentions

A. Complainant

The Complainant makes the following contentions:

- The disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights. It is established under the UDRP that where a complainant holds a registered trademark or service mark, the initial threshold requirement of having trademark rights is *prima facie* satisfied for the purposes of paragraph 4(a)(i). The disputed domain name contains the DAZN trademark in its entirety, with the addition of the word "moment". The Complainant recently registered the trademark DAZN MOMENT, which was applied for on the same day as the Respondent registered the disputed domain name. It is the consensus view under the UDRP that where a domain name contains the Complainant's trademark, additional generic terms do not negate a finding of confusing similarity. In respect of the generic top-level domain ("gTLD") ".com" featured in the disputed domain name, the Complainant requests that the Panel disregards it under the first element as it is a standard registration requirement.

- The Respondent has no rights or legitimate interests in respect of the disputed domain name. To the best of the Complainant's knowledge, the Respondent does not have any trademark rights to the term "dazn" nor any other terms used in the disputed domain name. There is also no evidence that the Respondent retains unregistered trademark rights to the term "dazn". Neither has the Respondent received any license from the Complainant to use domain names featuring the DAZN trademark. The Respondent has used the disputed domain name to direct to a popular domain name aftermarket website, offering the disputed domain name for sale at USD 49,500. Previous panels have found that the use of a domain name comprising a complainant's trademark, for the purpose of advertising its sale on a reseller platform, does not constitute a *bona fide* offering of goods or services. It also clearly constitutes a commercial use, and cannot be deemed to be "fair use" of the Complainant's DAZN trademark. The term "daznmoment" has no generic, nor descriptive meaning. Instead, it clearly connotes the Complainant's brand. The Respondent cannot demonstrate that it has used, or made demonstrable preparations to use, the disputed domain name in

connection with a *bona fide* offering of goods or services. To the best of the Complainant's knowledge, the Respondent is not commonly known by the mark DAZN, or any of the terms contained in the disputed domain name, nor is offering any goods or services by the term "dazn" or any other terms in the disputed domain name. Therefore, there is no plausible reason for the registration and use of the disputed domain name, other than the motive of taking advantage of the goodwill and valuable reputation attached to the DAZN brand. The Complainant's DAZN mark is well known and used to represent the Complainant's services.

- The disputed domain name was registered and is being used in bad faith. The Complainant's earliest trademark registration predates the creation date of the disputed domain name by 5 years and substantial goodwill has accrued in the Complainant's DAZN brand. The Respondent's registration of the disputed domain name is a clear example of "opportunistic bad faith", as the disputed domain name was registered on the same day that the Complainant applied for the trademark DAZN MOMENT in the European Union, an application that was publicly available online. The expression "daznmoment" is nonsensical. Searches for "dazn" on popular Internet search engines such as Google list the Complainant's services as the top results. Moreover, any average Internet user has access to DAZN trademark registrations, as they can be found on public trademark databases. Additionally, the Respondent has chosen to ignore a cease-and-desist letter sent by the Complainant's representatives in order to put the Respondent on notice of the Complainant's trademarks and rights, and with a view to resolve the matter amicably. The Respondent has listed the disputed domain name for sale for consideration in excess of its registration and maintenance costs. This circumstance demonstrates that the Respondent seeks to make commercial gain from misusing the Complainant's DAZN mark. The Respondent has shown a similar pattern in registering infringing domain names days after trademark applications have been filed.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to be entitled to a transfer of the disputed domain name, a complainant shall prove the following three elements:

- (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.

A. Identical or Confusingly Similar

The Panel has no doubt that "dazn" is a term directly connected with the Complainant's video streaming services.

Annex 9 to the Complaint shows trademark registrations for DAZN obtained by the Complainant as early as in 2016.

The trademark DAZN is wholly encompassed within the disputed domain name. The disputed domain name differs from the Complainant's trademark DAZN merely by the addition of the term "moment", as well as of the gTLD extension ".com".

Previous UDRP decisions have found that the mere addition of terms (such as "moment") to a trademark in a domain name does not prevent a finding of confusing similarity. This has been held in many UDRP cases

(see, e.g., *Inter-IKEA Systems B.V. v. Evezon Co. Ltd.*, WIPO Case No. [D2000-0437](#); *The British Broadcasting Corporation v. Jaime Renteria*, WIPO Case No. [D2000-0050](#); *Volvo Trademark Holding AB v. SC-RAD Inc.*, WIPO Case No. [D2003-0601](#); *Wal-Mart Stores, Inc. v. Lars Stork*, WIPO Case No. [D2000-0628](#); *America Online, Inc. v. Dolphin@Heart*, WIPO Case No. [D2000-0713](#); *AltaVista Company v. S. M. A., Inc.*, WIPO Case No. [D2000-0927](#)).

It is already well established that the addition of a gTLD extension such as “.com” is typically irrelevant when determining whether a domain name is confusingly similar to a complainant’s trademark.

As a result, the Panel finds that the disputed domain name is confusingly similar to the Complainant’s trademarks, and that the Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides some examples without limitation of how a respondent can demonstrate a right or legitimate interest in a domain name:

(i) before receiving any notice of the dispute, the respondent used or made demonstrable preparations to use the domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent has been commonly known by the domain name; or

(iii) the respondent is 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 at issue.

Based on the Respondent’s default and on the *prima facie* evidence in the Complaint, the Panel finds that the above circumstances are not present in this particular case and that the Respondent has no rights or legitimate interests in the disputed domain name.

The Panel notes that the present record provides no evidence to demonstrate the Respondent’s intent to use or to make preparations to use the disputed domain name in connection with a *bona fide* offering of goods or services. Indeed, the Complainant has showed that the confusingly similar disputed domain name has been offered for sale, sometimes for consideration presumably far in excess of its registration and maintenance costs.

The Complainant has not licensed or authorized the usage of its trademarks to the Respondent, and it does not appear from the present record that the Respondent is commonly known by the disputed domain name. Actually, the Respondent has not indicated any reason to justify why the specific term “daznmoment” was chosen to compose the disputed domain name.

Consequently, the Panel is satisfied that the Respondent has no rights or legitimate interests in the disputed domain name, and the Complainant has proven the second element of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy states that the following circumstances in particular, but without limitation, shall be evidence of registration and use of a domain name in bad faith:

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

(ii) the respondent 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 the respondent has engaged

in a pattern of such conduct; or

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, the respondent 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.

When the disputed domain name was registered by the Respondent in 2021, the trademark DAZN was already directly connected to the Complainant's global video streaming services. According to section 3.1.4 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith.

The disputed domain name encompasses the distinctive trademark DAZN. This Panel considers that the addition of the term "moment" to the trademark DAZN reinforces the Panel's finding that the Respondent has acted in bad faith, seeing as the resulting disputed domain name is identical to the Complainant's European Union Trademark Registration Number 018597625 for DAZN MOMENT, which was applied for on the same day as the disputed domain name was registered, namely November 9, 2021. Accordingly, the Respondent was likely aware of the Complainant, the Complainant's pending trademark application, and sought to target said nascent rights when registering and listing the disputed domain name for sale.

Moreover, there is no dictionary meaning for "daznmoment".

Therefore, the Panel concludes that it is very unlikely that the Respondent was not aware of the Complainant's trademarks and that the adoption of the disputed domain name was a mere coincidence.

The Complainant sent a cease-and-desist letter to the Respondent, who not only did not reply, but also kept offering the disputed domain name for sale at the website to which the disputed domain name redirected. Accordingly, the Respondent has used the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to Respondent's web site or other online location by creating a likelihood of confusion with the Complainant's mark as to the source or affiliation of the disputed domain name.

Therefore, and taking into account that the Respondent has not participated in this proceeding and thus has not provided any justifications for the registration of a domain name containing a third-party famous trademark nor provided any plausible good faith reason for the adoption of the term "daznmoment", the Panel finds that the Respondent has engaged in bad faith registration and use of the disputed domain name.

Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith, and the Complainant has also satisfied 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, <daznmoment.com>, be transferred to the Complainant.

/Rodrigo Azevedo/

Rodrigo Azevedo

Sole Panelist

Date: September 30, 2022