

## **ADMINISTRATIVE PANEL DECISION**

Seven Network (Operations) Limited v. Arif Hosen  
Case No. D2023-5257

### **1. The Parties**

Complainant is Seven Network (Operations) Limited, Australia, represented by Herbert Smith Freehills, Australia.

Respondent is Arif Hosen, Bangladesh.

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

The disputed domain name <7plustv.com> 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 19, 2023. On December 19, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 19, 2023, 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 (Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on December 21, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 11, 2024.

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 Respondent of the Complaint, and the proceedings commenced on January 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2024. Respondent sent email communications to the Center on January 13, 2024 and January 16, 2024.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on February 20, 2024. 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 presents itself as an Australian corporation which, together with its parent entity Seven West Media Limited, operates Australia's highest rated television network. In addition to its prime Channel 7, Complainant offers a range of digital channels, including a broadcaster video-on-demand ("BVOD") service called "7PLUS", which Complainant has operated since 2017 from its website at "www.7plus.com.au", with more than 13.5 million registered users currently.

Complainant owns Australian trademark registration No. 1313980 7PLUS in classes 9, 16, 18, 35, 38, and 41, with a registration date of August 7, 2009, hereinafter referred to as the "Trademark".

The disputed domain name was registered on June 23, 2022, and resolves to a website which features a banner with the name "7 Plus Tv" where users are invited to gain "Online Tv Access" by clicking on a hyperlinked button. Clicking on that button redirects the users to a web page, under another domain name, with information about various tiers of access to a purported VOD service, both paying and non-paying, and on which an account can be created to start using the streaming service. This site is not run by, nor affiliated with Complainant, which offers its services under the Trademark free of charge.

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

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

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, Complainant contends that the disputed domain name is identical or confusingly similar with the Trademark because the disputed domain name wholly incorporates the 7PLUS Trademark in its entirety. The additional element of "tv" in the disputed domain name is descriptive and is a term that many users would use to find the 7PLUS platform, given the nature of its BVOD services.

Complainant has not authorized Respondent to use the disputed domain name, nor is Complainant affiliated with Respondent in any way. The disputed domain name wholly encompasses the Trademark, and it is clear that Respondent is taking advantage of the reputation of the 7PLUS brand to attract Internet traffic to the website operated at the disputed domain name. Respondent's website creates the impression of an association with Complainant's broadcast services and is clearly set up to misleadingly divert Internet users to Respondent's website and to potentially mislead Internet users (who were attracted by the use of the Trademark) into signing up for the services purported to be offered through Respondent's website for Respondent's commercial gain and/or to tarnish the reputation of Complainant's Trademark.

Complainant submits that Respondent has registered and is using the disputed domain name in bad faith. Complainant submits that the presumption of bad faith should apply to this complaint, given as established above, the disputed domain name seeks to cause confusion, by wholly incorporating the well-known Trademark, as well as to use the Trademark on Respondent's website.

It is clear that the commercial purpose of Respondent's website is to misleadingly divert Internet users to Respondent's website, which appears to operate for unauthorized commercial gain and has the capacity to tarnish the Trademark.

On December 8, 2023, lawyers for Complainant wrote to Respondent, using its publicly listed contact details expressing Complainant's concerns, including that Complainant considers that Respondent has infringed Complainant's intellectual property rights, including in the Trademark. As at the date of the complaint, no response to this letter has been received.

If a user conducts a Google search using the search terms "7PLUSTV", Respondent's website is one of the top results that appears, and the well-known 7+ Logo of Complainant displays.

Given the content of Respondent's website Respondent is aware of the 7PLUS platform and Complainant's interests in the 7PLUS Trademark and Respondent must have been aware of the fact that the disputed domain name could attract Internet users in a manner that is likely to create confusion.

In addition to the above, the disputed domain name is registered via a privacy service, which can indicate bad faith. It demonstrates a "cavalier attitude towards the rights of others" by making it more difficult for a legitimate rights holder to identify the registrant and enforce its rights against them.

Finally, Complainant contends that Respondent's offer to sell the disputed domain name is even further evidence of bad faith.

Complainant requests that the disputed domain name be transferred to Complainant.

## **B. Respondent**

Respondent did not reply to Complainant's contentions. On January 16, 2024, Respondent sent an email to the Center, with the following content:

"I don't want to get into any trouble with you can you buy my domain".

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that Complainant prove each of the following three elements in order to succeed in its Complaint:

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

### **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 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.

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

Although the addition of other terms here, “TV”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on 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 Respondent. As such, where a complainant makes out a prima facie case that Respondent lacks rights or legitimate interests, the burden of production on this element shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on Complainant). If Respondent fails to come forward with such relevant evidence, Complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

The disputed domain name leads to a website that attempts to take advantage of the reputation of the Trademark and is obviously set up to misleadingly divert Internet users to Respondent’s website and to potentially mislead Internet users (who were attracted by the use of the Trademark) into signing up for the services purported to be offered through Respondent’s website for Respondent’s commercial gain and/or to tarnish the reputation of Complainant’s Trademark. Respondent does therefore not use the disputed domain name in connection with a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.2.

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.

In the present case, the Panel notes that:

- the disputed domain name wholly incorporates the Trademark;
- the content of Respondent’s website has been created to mislead Internet users as to its source, sponsorship or affiliation with Complainant;
- Respondent has a cavalier disregard for Complainant’s rights in its intellectual property;
- Respondent had knowledge of Complainant’s 7PLUS Trademark and must have been and be aware that the disputed domain name could attract Internet users in a manner that is likely to create confusion (and to cause confusion was most probably Respondent’s intention);
- Respondent has a clear absence of rights or legitimate interests in the disputed domain name and has provided no explanation as to the use of it;
- Respondent did not reply to the letter sent on behalf of Complainant, nor respond formally to the Complaint; and
- Respondent offered the disputed domain name for sale after receipt of the Complaint.

It is clear that the disputed domain name has been registered and is being used in bad faith.

The Panel finds that 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 <7plustv.com> be transferred to Complainant.

*/Richard C.K. van Oerle/*

**Richard C.K. van Oerle**

Sole Panelist

Date: March 5, 2024.