

ADMINISTRATIVE PANEL DECISION

Sanctum IP Holdings Ltd v. Leonid Kurza
Case No. D2024-3366

1. The Parties

Complainant is Sanctum IP Holdings Ltd, Antigua and Barbuda, represented by SafeNames Ltd., United Kingdom.

Respondent is Leonid Kurza, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <bodog-apostas.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2024. On August 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 16, 2024, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to Complainant on August 19, 2024, 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 August 20, 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 August 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 23, 2024.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on September 26, 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 is a company with an international presence which operates as a provider of online gambling services, specializing in sports betting and online casino offerings, establishing itself as one of the leading online betting providers.

Complainant's business operates from its official websites hosted at <bodog.eu> and <bodog.com> and detains a considerable online presence, as reflected by Internet traffic statistics. For instance, between April and June 2024 <bodog.eu> received more than 3.6 million visits.

Complainant is the owner of trademark registrations for the trademark BODOG in various jurisdictions, and operates various domain names containing the trademark BODOG, being registered as early as February 21, 2000, such as <bodog.net>; <bodog.co.uk>; <bodog.eu>; <bodog.com>.

Some examples of Complainant's trademarks registrations for BODOG can be found below:

Registration	Trademark	Jurisdictions	International Class	Registration Date
004491387	BODOG	European Union	35, 36, 41	October 27, 2006
UK00904491387	BODOG	United Kingdom	35, 36, 41	October 27, 2006
TMA799015	BODOG	Canada	41	June 1, 2011

The disputed domain name was registered on April 3, 2023, and resolves to a website in which Respondent apparently impersonates being operated or otherwise affiliated with the Complainant by alleging access to its casino gambling services.

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 alleges that the disputed domain name is confusingly similar to the trademark BODOG, since it fully incorporates BODOG, with the addition of the Portuguese term 'apostas', which translates to 'bets', separated by a hyphen.

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant's trademark BODOG, fulfilling paragraph 4(a)(i) of the Policy and paragraphs 3(b)(viii) and (b)(ix)(1) of the Rules.

Moreover, Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain name. Additionally, Complainant states that Respondent has not used, nor prepared to use, the disputed domain name in connection with a bona fide offering of goods or services, thus attempting to misleadingly divert consumers for the purpose of deriving commercial gain.

Complainant argues that Respondent tries to mask its identity by, without authorization, impersonating the Complainant's BODOG offerings, using its BODOG logo and trademark to direct consumers into their hosted webpage. In addition, Complainant understands that Respondent intends to exploit Complainant's BODOG mark by creating increased traffic to a competitor site and generating profit from inevitable engagement from Internet users on the landing page.

In this manner, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraph 4(a)(ii) of the Policy has been fulfilled.

Complainant asserts that their business and the trademark BODOG predate the creation date of the disputed domain name. Moreover, Complainant states that the BODOG name possesses a strong reputation as an established provider of online sports and gambling services. Complainant further notes that the distinctive nature of the BODOG name, without any ordinary or dictionary meaning, corroborate the fact that the Respondent have likely chosen the disputed domain name with Complainant's BODOG brand in mind.

Complainant further notes that Respondent uses the disputed domain name to allegedly host a website that impersonates Complainant's business and reproduces the BODOG trademark. Furthermore, Complainant notes that Respondent has been involved in a previous UDRP proceeding in which the Panel concluded, in that occasion, for the Respondent's bad faith.

Consequently, Complainant argues that Respondent was necessarily aware of Complainant's reputation in the field of sports betting and online casino offerings; and that Respondent intentionally tries to create confusion with Complainant's rights and reputation in the online betting sector to attract users to their website to obtain undue commercial gain.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraph 4(a)(iii) of the Policy.

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, a Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (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.

The burden of proving these elements is upon Complainant.

Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

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.

Based on the available record, the Panel finds 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 BODOG is reproduced within the 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.

The Panel finds that the disputed domain name is identical and, thus, confusingly similar to Complainant's trademark BODOG, with the sole addition of the word "apostas", that translates to "bets" from Portuguese, separated by a hyphen, which does not prevent a finding of confusing similarity between the disputed domain name and Complainant's trademark.

The disputed domain name consists also of the generic Top-Level Domain ("gTLD") ".com". The applicable gTLD in a domain name, such as ".com" in this case, is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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 that Complainant has established a prima facie case that the 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 Panel notes that Complainant argues that Respondent is likely using the disputed domain name to create confusion among Internet users and create the impression that Respondent's website is affiliated with or endorsed by Complainant. Respondent has failed to refute said claim. Moreover, the composition of the disputed domain name by itself carries a risk of implied affiliation to Complainant, and as such, cannot constitute fair use. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, Respondent is not entitled to any trademark, trade name, or any other right associated with the disputed domain name. Additionally, Respondent has not been authorized by Complainant to use the BODOG trademark, and there is no commercial relationship between the Parties. Respondent is not recognized by the disputed domain name, and the Panel notes that such resolves to a website in which Respondent allegedly impersonates and misrepresents Complainant's BODOG offerings. In light of these circumstances, the Panel finds that no rights or legitimate interests can be found on behalf of Respondent.

Also, Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 Respondent has registered the disputed domain name that is confusingly similar to Complainant's trademark BODOG, as explained above in 6.A. Also, based on the available record, Respondent has no affiliation with Complainant and the trademark BODOG, nor has it sought authorization or a license to utilize the referred trademark. Respondent does not own any trademarks containing the term BODOG.

Furthermore, considering Complainant's significant international reputation in connection with online gambling services, Respondent evidently knew or should have known of the existence of Complainant's prior trademark rights and domain names, which were matters of public record, before registering the disputed domain name. Thus, Respondent must have had knowledge of the Complainant's pre-existing rights in BODOG as a trademark and a domain name.

The registration of the disputed domain name was carried out by Respondent, who had the responsibility to verify the existence of the BODOG trademark. Therefore, it may be inferred that the registration of the disputed domain name was intentionally done with the aim of profiting from the reputation of Complainant's trademark in question. This action creates a likelihood of confusion among Internet users, considering specially that Respondent allegedly offers services on the website which purports from the disputed domain name which are alike with the ones offered by Complainant, suggesting an association with Complainant and implying that the disputed domain name is associated or belongs to Complainant.

A further element to be considered and which also indicates Respondent's bad faith is the fact that the Respondent has been involved in a previous UDRP proceeding in which the Respondent was found to have acted in bad faith (*Foundcom Limited v. Leonid Kurza, Igor Shanska and Dzianis Danilkovich*, WIPO Case No. [D2024-1928](#)).

The disputed domain name resolves to a webpage in which Respondent allegedly offers the services of online gambling related to the ones offered by Complainant in their business, in an attempt to create likelihood of confusion in the users to attract undue commercial gain boosted by Complainant's trademark BODOG reputation.

Panels have held that the use of a domain name for illegal activity (i.e., impersonation/passing off, or other types of fraud, in this case), constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the circumstances of the present case allows a finding of bad faith in the registration and use of the disputed domain name, considering that (i) Respondent would likely obtain commercial gain by using a confusingly similar name to Complainant's trademark; and (ii) Respondent was most likely aware of Complainant's rights on the trademark BODOG, considering specially that Respondent offers services very much alike the ones usually offered by Complainant in their business, and aimed to create a likelihood of confusion within Internet users to suggest an affiliation with Complainant.

Lastly, the Panel finds it is relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute.

Based on the available record, 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 <bodog-apostas.com> be transferred to the Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: October 11, 2024