

ADMINISTRATIVE PANEL DECISION

Tamaris (Gibraltar) Limited v. Garry Logan
Case No. D2024-4548

1. The Parties

The Complainant is Tamaris (Gibraltar) Limited, United Kingdom, represented by Wiley Rein LLP, United States of America (United States).

The Respondent is Garry Logan, Portugal.

2. The Domain Name and Registrar

The disputed domain name <cdn-pragmaticplay.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 November 5, 2024. On November 6, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 7, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 November 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 2, 2024.

The Center appointed Knud Wallberg as the sole panelist in this matter on December 9, 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

The Complainant is a company registered in Gibraltar, United Kingdom, which operates a business providing mobile and desktop casino games for the online gaming industry. The Complainant holds registrations for the trademark PRAGMATICPLAY and PRAGMATIC PLAY, and variations of it, in several countries, including European Union trademark registration No. 017891041 for the mark PRAGMATICPLAY registered on September 1, 2018, for goods and services in classes 9 and 41 and No. 017887401 for PRAGMATIC PLAY registered on September 1, 2018, for goods and services in classes 9 and 41.

The Complainant is also the owner of a number of domain names including <pragmaticplay.com> which was registered on October 29, 2014, and which has been resolved to the company's legitimate website since 2015.

The disputed domain name <cdn-pragmaticplay.com> was registered on April 16, 2024. When the Complaint was filed, the disputed domain name resolved to a website that contained cloned or otherwise illegitimate versions of the Complainant's online casino games.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is confusingly similar to the Complainant's PRAGMATICPLAY mark because it consists of the Complainant's mark in its entirety with the mere addition of "cdn" and the generic Top-Level Domain ("gTLD") ".com".

The Complainant contends that "cdn" may refer to the acronym for the web content term "content delivery network." Visitors would thus view the lettering as either descriptive or, if not familiar with that acronym, as random additions, neither of which detract from the similarity created by the precise use of PRAGMATIC PLAY.

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name. There is thus no evidence that the Respondent has ever been engaged in any legitimate use or demonstrable preparations to use, the disputed domain name <cdn-pragmaticplay.com> or corresponding name, in connection with a bona fide offering of goods or services, or been commonly known by the name "pragmaticplay" or "cdnpragmaticplay", or made a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The registration of the disputed domain name demonstrates an intent to capitalize on the Complainant's goodwill in the PRAGMATIC PLAY mark for the Respondent's financial gain. Furthermore, the disputed domain name is used in bad faith since it resolves to a website that publishes pirated versions of Complainant's games.

B. Respondent

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

6. Discussion and Findings

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.

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

Although the addition of other terms here, "cdn", 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 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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the 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 the Respondent has thus not addressed the Complainant's allegations that the disputed domain name "resolves to a website that publishes Complainant's pirated content". Even if the content was not pirated, the Panel finds that the composition of the disputed domain name along with its use (displaying in a prominent manner the PRAGMATIC PLAY trademark) carries a risk of implied affiliation.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case the disputed domain name has been used for a website, which clearly gave Internet users the impression that the website offered games that purported to be genuine games developed by the Complainant. Since this is not the case the Panel finds that there can be no doubt that the disputed domain name has been used in bad faith to intentionally attempt "to attract, for commercial gain, Internet users to the Respondent's 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 the Respondent's website".

The Panel finds that the 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 <cdn-pragmaticplay.com> be transferred to the Complainant.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: January 6, 2025