

ADMINISTRATIVE PANEL DECISION

Tipwin Limited v. juDefau conta, juDefau conta
Case No. D2024-4559

1. The Parties

The Complainant is Tipwin Limited, Malta, represented by Kroher Strobel Rechts- und Patentanwälte PartmbB, Germany.

The Respondent is juDefau conta, juDefau conta, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <tipwin.one> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 6, 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 6, 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 (Tipwin Sport Betting) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 7, 2024, 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 November 8, 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 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 sent email communications to the Center on November 11 and 14, 2024. The proceedings were suspended on November 20, 2024. The Respondent sent an email to the Complainant, copied to the Center, on November 21, 2024. The proceedings were reinstated on December 20, 2024.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on December 27, 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 was established in 2011, providing betting services from physical premises and online under licences granted by the governments of Malta and the city of Darmstadt in Germany.

The Complainant's online operations are conducted from the website at "www.tipwin.de".

The Complainant is the owner of European Union Registered Trademark ("EUTM") No 018073646, TIPWIN (figurative), which was registered on October 31, 2019 in respect of relevant goods and services in International Classes 9, 16, 28, 35, 36, 38, 41, and 45. In addition to goods and services directly related to betting including betting slips, gambling, and providing gambling and gaming services on the Internet, the services also include advertising, marketing and promotional services in International Class 35, and education, entertainment, and sports services in International Class 41. The figurative trademark consists of the word "tipwin" with "tip" presented in red and "win" in black.

The disputed domain name was registered on June 24, 2024.

Prior to the Complaint being filed, the disputed domain name resolved to a website headed "Tipwin Sport Betting 2024 – Online betting starts here". The website displayed the disputed domain name as a banner, featuring "tip" in red and "win.one" in black. The landing page featured articles or videos about various upcoming sports events including American football, the Euros 2024, Copa America 2024, and Major League Baseball.

Text on the landing page underneath a large "tipwin.one" button repeated the heading "Tipwin Sport Betting 2024 – Online betting starts here". Then, it set out text which recited the Complainant's history and the services it offered.

In response to the Complaint, the Respondent claims to have taken a number of steps. These include modifying the text and images on the website and blocking access to the website from users outside the United States of America ("United States").

On the screenshot of the revised website provided by the Respondent, the heading "Tipwin Sport Betting 2024 – Online betting starts here" has been removed and replaced with a large "tipwin.one" banner or logo in which "tip" is red and "win.one" is in black. Under "History and Background", the website now states that "Tipwin.one Sport Betting" was founded in 2024 and focuses on the United States (rather than, respectively, 2011 and Europe). It continues:

"Tipwin.one quickly made its mark through strategic investments in technology and a strong emphasis on responsible gambling. The founders aimed to create a platform that offered a wide array of betting options while ensuring user safety and satisfaction."

"Tipwin.one Sport Betting Focus on the United States, The company's rapid expansion saw it establish a network of betting shops alongside a robust online presence, catering to an ever-growing number of sports enthusiasts. Today, Tipwin.com Sports Betting operates under the endorsement of reputable authorities, including those in gaming and sports, further enhancing its credibility and trustworthiness."

As with the pre-Complaint version, after a number of panes appearing to link to various articles about sports in the United States, there is a large panel or button “tipwin.one” in red (“tip”) and white lettering presented on a black background. Underneath this panel or button is the legend “Tipwin Sport Betting 2024 – Online betting starts here”.

The Panel has confirmed that the Respondent’s website is not accessible from the Panel’s location outside the United States.

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant’s trademark rights.

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 proven ownership of at least the EUTM for TIPWIN.

Disregarding the “.one” generic Top-Level Domain (gTLD) as a functional aspect of the domain name system ([WIPO Overview 3.0](#), section 1.11), the disputed domain name therefore consists of the Complainant’s registered trademark.

The Respondent points out that the Complainant’s trademark is an EUTM and the Complainant has not relied on any trademark rights in the United States. It also calls on the Complainant to provide evidence of any licences the Complainant has to operate in the United States. (No such licences have been provided but nor has the Respondent provided evidence of licences it holds (if any are required)).

These arguments misunderstand the nature of the inquiry under this limb of the Policy. The comparison of the disputed domain name to the Complainant’s trademark simply requires a visual and aural comparison of the disputed domain name to the proven trademarks. This test is narrower than and thus different to the question of “likelihood of confusion” under trademark law. Therefore, questions such as the scope of the trademark rights, the geographical location of the respective parties, the date they were acquired and other considerations that may be relevant to an assessment of infringement under trademark law are not relevant at this stage. Such matters, if relevant, may fall for consideration under the other elements of the Policy. See e.g., [WIPO Overview 3.0](#), section 1.7.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is identical with the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or
- (iii) [the Respondent] is making a legitimate noncommercial or fair use of the [disputed] domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

While 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 often impossible 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. 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.

The Respondent registered the disputed domain name after the Complainant began using the trademark and also after the Complainant had registered its trademark.

The Complainant states that it has not authorised the Respondent to use the disputed domain name. Nor is the Respondent affiliated with it.

The disputed domain name is not derived from the Respondent's own name. The text and the copyright notice on both versions of the Respondent's website suggest there is an entity known as "Tipwin.one" or "Tipwin.one Sport Betting".

It appears from the second version of the Respondent's website that this "entity" was formed only in 2024. The name therefore was adopted well after the Complainant commenced use. While "tip", "win", and "one" are each common English words, the phrases "tipwin" and "tipwin.one" are not dictionary terms and they are not directly descriptive of betting or gambling services or, for that matter, the provision of information about sports. Rather the phrase "tipwin" appears to be more in the nature of a skilful allusion to the activities of betting and gambling.

Accordingly, it appears likely that the name "Tipwin" was adopted with knowledge of the Complainant and its trademark. That conclusion is reinforced by the adoption of a colour scheme identical to the Complainant's registered trademark with "tip" in red, and "win" in black, as well as the text on the original version of the website which portrays the website as being the website of the Complainant.

In the absence of a credible explanation of how the name came to be adopted, therefore, the adoption and use of the name cannot be relied on to support a defence under paragraph 4(c)(ii) of the Policy.

The rationale for the defence provided by this paragraph is that the name in question has been adopted innocently without knowledge of the Complainant or intention to trade on the Complainant's trademark.

As noted above, the Respondent contends it is (now) focused on the market in the United States where (the Respondent says) the Complainant has no rights. The Respondent also claims to be operating in a different field – the provision of news and information.

It is not immediately apparent to the Panel that the Respondent's website is limited just to the provision of news and information. Apart from anything else, there are the references on the site to "Tipwin Sport Betting 2024 – Online betting starts here" and the claim, even on the revised version of the website, that the Respondent has established a network of physical betting shops. In any event, the services the Respondent claims to be providing appear to fall within the scope of the Complainant's claims 35 and 41 services.

As the Respondent points out, there is no evidence that the Complainant has registered trademark rights in the United States where the Respondent claims to be operating. However, a website on the Internet is typically accessible from anywhere in the world with an Internet connection – as was the case with the Respondent's website at least before the Complaint was filed. Indeed, the content of the Respondent's website at that time appeared to be directed at, or to include audiences in Europe.

While there are cases where a complainant's rights are so geographically limited that a respondent may legitimately adopt an apparently confusingly similar domain name especially where the respondent operates in a very different field, that is not this case. The Respondent appears to have adopted the Complainant's trademark as the Respondent's domain name and trademark for the same, or very similar, services and with the intention of falsely presenting itself as the Complainant.

In these circumstances, the use of the disputed domain name to offer what appear to be directly competing services to those of the Complainant does not qualify as a legitimate non-commercial or fair use for the purposes of paragraph 4(c)(iii) of the Policy. Nor does it qualify as a good faith offering of goods or services. Rather, it appears to be a naked attempt to trade on the Complainant's trademark.

Accordingly, the Panel finds the Complainant has established the second requirement under the Policy also.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain names have been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: see e.g., *Group One Holdings Pte Ltd v. Steven Hafto* WIPO Case No. [D2017-0183](#).

For the reasons outlined above, it appears more than likely that the Respondent adopted the disputed domain name with knowledge of the Complainant's trademark and with the intention of opportunistically taking advantage of the disputed domain name's resemblance to the Complainant's trademark.

The Respondent then appears to have used the disputed domain name for that purpose and, moreover, did so in a manner calculated to mislead the public into the false belief that the Respondent was the Complainant or in some way associated with the Complainant.

Therefore, the Panel finds the Respondent has registered and used it in bad faith.

Accordingly, the Complainant has established all three requirements under the Policy.

6. 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 <tipwin.one> be cancelled.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: January 4, 2025