

ADMINISTRATIVE PANEL DECISION

Tamaris (Gibraltar) Limited v. Host Master, Njalla Okta LLC
Case No. D2025-0082

1. The Parties

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

The Respondent is Host Master, Njalla Okta LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <pragmaticplay-softswiss.com> is registered with Tucows Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 9, 2025. On January 10, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 10, 2025, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 13, 2025, 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 January 15, 2025.

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 January 16, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 5, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 7, 2025.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on February 12, 2025. 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 provider of mobile and desktop casino games for the online gaming industry, based in Gibraltar.

According to the Complaint, the Complainant, or its predecessors-in-interest, has been developing and supplying its products under the PRAGMATIC PLAY trade mark since at least 2016. Amongst other things, the Complainant promotes its products and services from its website at “www.pragmaticplay.com”, having registered the domain name in 2014. In 2015, the Complainant also registered the domain name <pragmaticplay.net> which redirects to the website at “www.pragmaticplay.com”.

In addition to promoting its products from its website, the Complainant also uses a number of distributors. One of those distributors is “SoftSwiss”.

The Complaint also includes evidence that the Complainant has won a number of awards under its name. For example, Pragmatic Play was awarded three prizes including Slot of the Year for “Gates of Olympus” at the CasinoBeats Game Developer Awards in 2022. Pragmatic Play was also awarded Slot Legacy Title for “Sweet Bonanza” and the SlotCatalog Game Studio of the Year – Large Studio. As Pragmatic Play, the Complainant also received four awards at the MiGEA Awards in 2022 for Best Gaming Company of the Year, Best Gaming Casino Supplier of the Year, Best Innovative Company of the Year and the Lifetime Achievement Award. The Complainant also received multiple awards at SAGSE Buenos Aires 2022.

According to the Complaint, the Complainant owns numerous registered trademarks for PRAGMATICPLAY around the world as a word mark of in figurative versions. The Complaint includes evidence of several registrations in the European Union. For present purposes, it is sufficient to mention European Union Registered Trademark No 017891041, PRAGMATICPLAY, which was filed on April 23, 2018 and registered on September 1, 2018 in respect of computer programs and mobile applications relating to gambling and betting in International Class 9 and online gambling and gaming services in International Class 41.

The disputed domain name was registered on December 2, 2024.

It resolves to a website which features “PragmaticPlay” prominently in the top left hand corner above a navigation menu. The website also bears a copyright notice at the foot of each page “© PragmaticPlay – SiteMap”.

The landing page for this website features an article or report headed “Pragmatic Play Softswiss Scam You Should Fear”. After stating that Pragmatic Play provides online casino games to SoftSwiss for distribution, the text makes allegations that SoftSwiss and its founders are involved in, or under investigation for, global fraud schemes.

The website also features a page “Take Action” or “Take Legal Action” which lists the Complainant as one of about 90 gaming suppliers. The page then invites people who have played any of these companies’ games and who have concerns about the licensing status of the game to contact the relevant authorities in their country. This page also includes a listing of relevant authorities with whom complaints could be raised.

5. Discussion and Findings

No response has been filed. The Complaint and Written Notice have been sent, however, to the Respondent at the electronic and physical coordinates confirmed as correct by the Registrar in accordance with paragraph 2(a) of the Rules. Bearing in mind the duty of the holder of a domain name to provide and keep up to date correct Whois details, therefore, the Panel finds that the Respondent has been given a fair opportunity to present his or its case.

When a respondent has defaulted, paragraph 14(a) of the Rules requires the Panel to proceed to a decision on the Complaint in the absence of exceptional circumstances. Accordingly, paragraph 15(a) of the Rules requires the Panel to decide the dispute on the basis of the statements and documents that have been submitted and any rules and principles of law deemed applicable.

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of the 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.

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 registered trademarks in at least the European Union for PRAGMATICPLAY.

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.

In undertaking that comparison, it is permissible in the present circumstances to disregard the generic Top-Level Domain (gTLD) component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the ".com" gTLD, the disputed domain name consists of the Complainant's registered trademark and the term "SoftSwiss". As this requirement under the Policy is essentially a standing requirement, the addition of this term does not preclude a finding of confusing similarity. See e.g., *Philip Morris USA Inc. v. Whoisguard Protected, Whoisguard, Inc. / MARK JAYSON DAVID*, WIPO Case No. [D2016-2194](#). Apart from anything else, the Complainant's trademark remains visually and aurally recognisable within the disputed domain name.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is confusingly similar to 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 name. Nor is there any suggestion of some other name by which the Respondent is commonly known from which the disputed domain name could be derived. From the available record, the Respondent does not appear to hold any trademarks for the disputed domain name.

The content of the website could arguably be seen as supporting a claim of legitimate noncommercial or fair use. The Complainant itself denies any belief in the truth of the allegations made on the site. On the other hand, the Panel has no knowledge about the truth or otherwise of the allegations made and makes no finding one way or the other about those matters.

However, insofar as the composition of the disputed domain name is concerned, the combination of the Complainant's mark plus the name of its partner gives rise to an inference that the same is somehow endorsed or sponsored by the Complainant when it plainly is not. In some respects, the website arguably even purports to be the website of the Complainant. It features the Complainant's name and trademark in

the top left hand corner where the brand of the owner would typically appear and the copyright notice purports to identify “PragmaticPlay” as the publisher and owner of the copyright. A close reading of some of the text on the landing page might qualify that impression as it could be taken to suggest that the Complainant was involved with SoftSwiss with the alleged misconduct. It is at the least confusing when the website (not to mention domain name) otherwise purports to be put up by the Complainant.

The use of the disputed domain name and the Complainant’s name and trademark in this way lends considerable force to the allegations. As mentioned already, however, the Complainant does not endorse the allegations or believe them to be true. The use of the Complainant’s name and trademark – and the confusingly similar disputed domain name, therefore, is false and conveys a false impression of the Complainant’s endorsement of the allegations. That falsity does not qualify as “legitimate” or “fair” for the purposes of paragraph 4(c)(iii).

These matters, taken together, are sufficient to establish a prima facie case under the Policy that the Respondent has no rights or legitimate interests in the disputed domain name. The basis on which the Respondent has adopted the disputed domain name, therefore, calls for explanation or justification. The Respondent, however, has not sought to rebut that prima facie case or advance any claimed entitlement.

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 name has been 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](#).

Given the content of the website to which the disputed domain name resolves, there can be no doubt the Respondent was well aware of the Complainant and its trademark when registering the disputed domain name.

As discussed in section 5B above, it appears that the Respondent has adopted the Complainant’s name and trademark to take advantage of the Complainant’s reputation and standing in the gaming industry to attract viewers to the Respondent’s website and allegations. Taking advantage of the Complainant’s trademark and reputation in this fashion without the Complainant’s permission, or other justification, constitutes registration in bad faith and the manner of use following registration is use 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 <pragmaticplay-softswiss.com> be transferred to the Complainant.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: February 26, 2025