

## **ADMINISTRATIVE PANEL DECISION**

Entain Plc and Avid International Limited v. izmailov andrei  
Case No. DAC2022-0002

### **1. The Parties**

The Complainants are Entain Plc, United Kingdom and Avid International Limited, United Kingdom, represented by Stobbs IP Limited, United Kingdom.

The Respondent is izmailov andrei, Russian Federation.

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

The disputed domain name <sportsinteraction.ac> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 28, 2022. On September 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On September 29, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 3, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amended Complaint. The Complainant filed an amended Complaint on October 3, 2022.

The Center verified that the Complaint together with the amended Complaint, satisfied the formal requirements of the .AC Domain Name Dispute Resolution Policy (the “.AC Policy”), the Rules for .AC Domain Name Dispute Resolution Policy (the “.AC Rules”), and the WIPO Supplemental Rules for .AC Domain Name Dispute Resolution Policy (the “.AC 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 October 4, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2022. The Respondent did not file a Response and the Center notified the Respondent’s default to the parties on October 25, 2022.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on October 31, 2022. 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**

##### **Complainants and Trademark**

The Complainant Entain Plc (“Entain”) is an international sports-betting and gaming group. Originally incorporated in Luxembourg in 2004 as Gaming VC Holdings S.A, it is now established under its current name as a private limited company on the Isle of Man, a self-governing British Crown Dependency of the United Kingdom. Entain’s stock has traded on the Alternative Investment Market (AIM) of the London Stock Exchange since May 2010. As of October 20, 2021, the group’s outstanding shares were valued at GBP 12.7 billion.

The record shows that in February 2022 Entain acquired Deis Ltd, a group including the second Complainant, Avid International Limited (“Avid”). Avid, incorporated in the self-governing British Crown Dependency of Jersey, operates online gaming under the SPORTS INTERACTION brand from the Mohawk Territory of Kahnawake in Canada. Avid reported 2021 revenues of approximately GBP 44 million under the SPORTS INTERACTION brand.

The Complainant Avid or its licensees have operated a SPORTS INTERACTION online sports-betting website at “www.sportsinteraction.com” since 2004 (predecessors registered that domain name in July 1997). The Complainants have thousands of followers on their linked SPORTS INTERACTION social media sites on Twitter, Facebook, and Instagram. The record includes examples of awards and media recognition for the Complainants’ SPORTS INTERACTION online sports-betting offerings in 2021 and 2022.

The Complainant Avid holds Benelux Trademark Registration No. 854298 (registered February 10, 2009) for a figurative mark with the word elements SPORTS INTERACTION.

##### **Consolidation**

Avid holds the registered SPORTS INTERACTION mark and is now owned by Entain. Both Complainants appear to be involved in the group’s operation of online sports-betting under that mark. The Panel finds, therefore, that the Complainants have a common interest in pursuing this UDRP proceeding and determines to include both Entain and Avid as the Complainants. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”)<sup>1</sup>, section 4.11.1:

“In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation.”

##### **Domain Name and Use**

The Registrar’s Whois database indicates that the Domain Name was created on August 9, 2022, registered in the name of the Respondent domain privacy service. After receiving notice of the Complaint in this proceeding, the Registrar identified the underlying registrant as “izmailov andrei”, listing no organization and showing a postal address in the Russian Federation and a contact email using the Yandex email service. Mr. Ismailov is referred to hereafter as the “Respondent”.

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<sup>1</sup> In view of the similarities between the .AC Policy and the Uniform Domain Name Dispute Resolution Policy (UDRP), the Panel will refer to previous UDRP decisions and the [WIPO Overview 3.0](#) when relevant.

The Complaint attaches a screenshot of the website to which the Domain Name resolved on August 19, 2022, ten days after registration of the Domain Name. This site emulated the Complainants' online sports-betting website and was headed with a copy of the Complainant's trademarked logo. However, the footer on the home page of the Respondent's website identified the website operator as "Sportsinteractive (CY) Limited", ostensibly a limited company established in Limassol, Cyprus. The Panel notes that such entity does not appear in the online database of the Cyprus Department of the Registrar of Companies and Intellectual Property, Companies Section.

At the time of this Decision, the Domain Name does not resolve to an active website.

## **5. Parties' Contentions**

### **A. Complainants**

The Complainants assert that the Domain Name is identical or confusingly similar to their registered SPORTS INTERACTION trademark and that the Respondent does not have permission to use the mark or other rights or legitimate interests in the Domain Name.

The Complainants contend that the use of the Domain Name for a website offering online, regulated sports-betting and displaying the Complainants' trademarked logo without permission reflects bad faith as described in the .AC Policy, paragraph 4(b)(iv). The Complainants also argue that using the Domain Name for email (such as the email address formerly published on the Respondent's website) raises the risk of using the Domain Name for phishing scams. Finally, the Complainants argue that the current non-use of the Domain Name still warrants a finding of bad faith under the "passive holding" doctrine of *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

### **B. Respondent**

The Respondent did not reply to the Complainants' contentions.

## **6. Discussion and Findings**

Paragraph 4(a) of the .AC Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following: (i) the 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 domain name; and (iii) the domain name has been registered and is being used in bad faith. Under paragraph 15(a) of the .AC Rules, "[a] Panel shall decide a 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 of a .AC complaint "functions primarily as a standing requirement" and entails "a reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". [WIPO Overview 3.0](#), section 1.7. The word element of the Complainants' composite SPORTS INTERACTION trademark is a dominant element, and it is incorporated in its entirety in the Domain Name. As usual, the Top-Level Domain (which in this case is ".ac", the country code Top-Level Domain ("ccTLD") for Ascension Island) is disregarded as a standard registration requirement. See *id.* section 1.11.2. of the [WIPO Overview 3.0](#).

The Panel finds, therefore, that the Domain Name is confusingly similar to the Complainants' mark for purposes of the first Policy element and concludes that the Complainants have established the first element of the Complaint.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the .AC Policy gives non-exclusive examples of instances in which a respondent may establish rights or legitimate interests in a domain name, by demonstrating any of the following:

(i) before any notice to it of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) that the respondent has been commonly known by the domain name, even if it has acquired no trademark or service mark rights; or

(iii) the respondent is making 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.

Because a respondent is in the best position to assert rights or legitimate interests in a domain name, it is well established that after a complainant makes a *prima facie* case, the burden of production on this element shifts to the respondent to come forward with relevant evidence of its rights or legitimate interests in the domain name. See [WIPO Overview 3.0](#), section 2.1.

The Complainants have established trademark rights, a lack of permissive use, and use of the Domain Name only for an imitative website copying the Complainants' trademark. Thus, the Complainants have made a *prima facie* case, and the burden of production shifts to the Respondent. The Domain Name briefly resolved to a website displaying the Complainants' trademarked logo and the name of an ostensible Cypriot limited company with a similar name. The Respondent has not come forward with proof of such a legal entity, and the Panel notes that no such name appears in the online database operated by the relevant authority in Cyprus. Even if such an entity existed, its offering of services on a website headed with the Complainants' trademark, without permission, could not be considered a *bona fide* offering of goods or services.

The Panel finds that the Respondent has not met its burden of production on this issue and concludes that the Complainants prevail on the second element of the Complaint.

## **C. Registered or Used in Bad Faith**

The Policy, paragraph 4(b), furnishes a non-exhaustive list of circumstances that "shall be evidence of the registration and use of a domain name in bad faith", including the following (in which "you" refers to the registrant of the domain name):

"(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location."

The Respondent was clearly aware of the Complainants' trademark, as the Respondent reproduced the Complainants' trademarked logo at the head of the Respondent's website associated with the Domain Name ten days after registering the Domain Name, for a website similar to the Complainants' and offering competing online sports-betting services. The Complainants' mark is well-established in online gaming, and the exact reproduction of the mark in both the Domain Name and on the Respondent's imitative website cannot be coincidental.

The Respondent's failure to respond to this proceeding lends further credence to the inference that the Respondent had no legitimate reasons for selecting the Domain Name and may yet use it for phishing attacks, as the Complainant fears, or for misleading sites as the Respondent briefly did after registering the Domain Name.

The Panel concludes, therefore, that the Complainants have established the third element of the Complaint, bad faith.

## **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the .AC Policy and 15 of the .AC Rules, the Panel orders that the Domain Name, <sportsinteraction.ac>, be transferred to the Complainants.

*/W. Scott Blackmer/*

**W. Scott Blackmer**

Sole Panelist

Date: December 1, 2022