

## **ADMINISTRATIVE PANEL DECISION**

DAZN Limited v. Alfio Claudio Grasso, G.A.C. - Informatica  
Case No. D2023-3699

### **1. The Parties**

The Complainant is DAZN Limited, United Kingdom, represented by SafeNames Ltd., United Kingdom.

The Respondent is Alfio Claudio Grasso, G.A.C. - Informatica, Italy.

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

The disputed domain names <dazn.cloud> and <dazn.mobi> are registered with Name.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2023. On September 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 5, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the complete contact details. The Center sent an email communication to the Complainant on September 6, 2023 providing the registrant’s complete contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on September 7, 2023.

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 September 18, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 11, 2023.

The Center appointed Mihaela Maravela as the sole panelist in this matter on October 31, 2023. 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**

According to information in the Complaint, the Complainant is a global Internet sports subscription video streaming service operating across a multitude of digital platforms, including mobile devices, tablets, game consoles and smart TVs. Initially focused on boxing, the Complainant's service offers a monthly subscription by which users can enjoy a multitude of sporting events arraying different types of sports such as UFC, soccer, American football and many more. Initially launched in Germany, Switzerland, Austria, Japan and Canada, the Complainant now serves over 200 territories. The Complainant's applications are available on the Apple App Store and the Google Play Store. In 2019, mobile analytics firm SensorTower listed the Complainant as the highest-grossing sports-related mobile app in terms of worldwide revenue on app storefronts.

The Complainant is the owner of various registered trademarks that consisting of or include DAZN in various jurisdictions throughout the world, including the following:

- the International trademark no. 1335316 DAZN (word) registered on March 2, 2016, covering goods and services in classes 9, 16, 35, 36, 38, 41, 42, 45;
- the Australian trademark no. 1892692 DAZN (word) registered as of June 8, 2017 covering goods and services in classes 9, 38, 41;
- the United States trademark no. 5264263 DAZN (word) registered as of August 15, 2017 covering goods and services in classes 9, 38, 41.

The Complainant operates websites at the domain names <dazn.com>, <dazn.fr>, <dazn.us>, <dazn.de> and others.

The disputed domain names were registered on July 18, 2018 and redirect to <tinder.com>.

The Complainant's representatives sent to the Respondent a cease-and-desist letter on June 20, 2023, but according to the case file no response was sent by the Respondent.

#### **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 names.

Notably, the Complainant contends that the disputed domain names are identical to the Complainant's DAZN trademark. The generic Top-Level Domains ("gTLDs") ".cloud" and ".mobi" featured in the disputed domain names do not negate a finding of confusing similarity as they are standard registration requirements.

With respect to the second element, the Complainant contends that, to the best of its knowledge, the Respondent does not have any trademark rights to DAZN. Neither has the Respondent received any license from the Complainant to use domain names featuring the DAZN trademark. The disputed domain names are used to redirect Internet users to a page on the dating platform <tinder.com>, but no profile content is shown. The Complainant affirms that the <tinder.com> platform is not affiliated with DAZN services, and is

completely unrelated to DAZN. The Complainant has found no evidence of any demonstrable preparations to use the domain names in connection with *bona fide* offering of goods or services. There is also no plausible *bona fide* offering of services that could be made from the disputed domain names that would not be a misuse of the DAZN trademark, given that this term has no generic or common usage.

As regards the third element, the Complainant argues that its earliest trademark registration predates the creation date of the disputed domain names by two years. In addition, substantial goodwill has accrued in the Complainant's DAZN brand. Moreover, the registration of the disputed domain names also coincides with the Complainant's entry into the Italian market, where the Respondent is based. With respect to the use, the Respondent intentionally used the commercial value and goodwill of the Complainant's brand to attract and redirect Internet users to a third-party website. This third-party website commercially benefits from Internet traffic being driven to its website, given that its services are offered exclusively online. Moreover, the Complainant argues that the Respondent has engaged in a pattern of registering infringing domain names, preventing the rightsholders from reflecting their trademarks. As such, the Complainant submits that there have been two previous cases against the Respondent, and in both it was found under similar circumstances that the Respondent had registered and used the respective domain names in bad faith. Additionally, the Respondent holds or has held numerous other domain names infringing on pre-existing trademarks.

## **B. Respondent**

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

## **6. Discussion and Findings**

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are 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 names, and (iii) the disputed domain names have been registered and are being used in bad faith.

### **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 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 Panel finds the disputed domain names are identical to the Complainant's trademark.

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.

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.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

There is no evidence in the record that the Respondent is currently using the disputed domain names in connection with a *bona fide* offering of goods or services, nor does the Respondent appear to engage in any legitimate noncommercial or fair use of the disputed domain names within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. The use of the disputed domain names for what appears as redirection of Internet traffic to a dating website, <tinder.com>, does not amount to use for a *bona fide* offering of goods and services in the circumstances of this case. Also, there is no evidence that the Respondent is commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy.

Furthermore, and given the overall circumstances of the case, the nature of the disputed domain names carries a high risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Based on the available record, 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.

According to the unrebutted assertions of the Complainant, its DAZN trademark was widely used in commerce before the registration of the disputed domain names. The disputed domain names are identical to the Complainant’s distinctive trademark and were registered shortly after announcements of the Complainant entering the Italian market, where the Respondent is located. Under these circumstances, the Respondent very likely registered the disputed domain names having the Complainant’s trademark in mind. The Respondent provided no explanations for why it registered the disputed domain names.

As regards the use, the disputed domain names redirect Internet traffic to a dating website, <tinder.com>. Given the identity between the Complainant’s DAZN trademark and the disputed domain names, and that the Respondent has provided no explanation, and none is immediately obvious, why an entity would register two domain names identical to the DAZN trademark and redirect them to a dating website unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its DAZN trademark.

Moreover, the Respondent has not formally participated in these proceedings and has failed to rebut the Complainant's contentions and to provide any evidence of actual or contemplated good-faith use and indeed none would seem plausible.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **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 names, <dazn.cloud> and <dazn.mobi>, be transferred to the Complainant.

*/Mihaela Maravela/*

**Mihaela Maravela**

Sole Panelist

Date: November 14, 2023