

ADMINISTRATIVE PANEL DECISION

Flutter Entertainment plc, Rational Intellectual Holdings Limited v. Privacy Service Provided by Withheld for Privacy ehf / Edward Jarman, MONSOON BLOCKCHAIN

Case No. D2022-1697

1. The Parties

The Complainants are Flutter Entertainment plc, Ireland and Rational Intellectual Holdings Limited, Isle of Man, represented by Demys Limited, United Kingdom.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Edward Jarman, MONSOON BLOCKCHAIN, United States of America.

2. The Domain Name and Registrar

The disputed domain name <pokerstarsnft.com> (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 May 10, 2022. On May 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 10, 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 and contact information in the Complaint. The Center sent an email communication to the Complainants on May 11, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on May 11, 2022.

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 May 18, 2022. In accordance with the Rules, paragraph 5,

the due date for Response was June 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 8, 2022.

The Center appointed Jeremy Speres as the sole panelist in this matter on June 15, 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

The Complainants are two entities within a group of related companies. The First Complainant – Flutter Entertainment plc – is incorporated in Ireland and is a multinational sports betting and gaming company that has operated, *inter alia*, an online poker website under the POKERSTARS brand since 2020 when it was acquired from a third party. Pokerstars is a large poker site offering worldwide online tournaments and interaction with professional poker players. Since 2002 it annually hosts the world championship of online poker. The POKERSTARS brand has been recognised as well known in numerous prior decisions under the Policy.

The Second Complainant – Rational Intellectual Holdings Limited – is the intellectual property holding company of the group incorporated in the Isle of Man. It owns many POKERSTARS trade mark registrations around the world, including United States (the Respondent's reported country) trade mark registration no. 3381727 POKERSTARS, registered on February 12, 2008 in classes 9 and 41.

The Domain Name was registered on November 1, 2021 and, as at the date of submission of the Complaint and the drafting of this Decision, resolved to a website featuring pay-per-click ("PPC") advertisements relating to and competing with the Complainants' POKERSTARS offering.

5. Parties' Contentions

A. Complainant

The Complainants contend that the Domain Name is confusingly similar to their POKERSTARS mark, that the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name was registered and used in bad faith given that it has been used for PPC advertisements which relate to and compete with the Complainants' services for the Respondent's commercial gain.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

A. Preliminary Issue – Consolidation – Multiple Complainants

The Panel notes that Complainants are two entities within a group of related companies, and finds that the Complainants have a specific common grievance – the Domain Name has targeted both Complainants, it takes unfair advantage of the trade mark, which is used by the First Complainant, and is confusingly similar to the Second Complainant's registered rights. It would be equitable and procedurally efficient to allow consolidation in these circumstances (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 4.11.1).

B. Identical or Confusingly Similar

The Complainants' registered and well-known mark is wholly contained within the Domain Name as its first element with only the addition of the term "nft". Where the trade mark is recognisable within the disputed domain name (as in this case), the addition of other terms does not prevent a finding of confusing similarity ([WIPO Overview 3.0](#) at section 1.8). The Complainants have satisfied the requirements of paragraph 4(a)(i) of the Policy.

C. Rights or Legitimate Interests

The Complainants' un rebutted evidence establishes that their POKERSTARS mark was registered and well known for many years prior to registration of the Domain Name. The Domain Name is confusingly similar to the Complainants' mark and the Complainants have certified that the Domain Name is unauthorised by them.

Use of a domain name to host PPC links does not represent a *bona fide* offering where such links compete with or capitalise on the reputation and goodwill of the complainant's mark, as in this case ([WIPO Overview 3.0](#) at section 2.9). There is thus no evidence that any of the circumstances set out in paragraph 4(c) of the Policy pertain, nor any others which may confer rights or legitimate interests on the Respondent.

The Complainants have satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

D. Registered and Used in Bad Faith

UDRP panels have consistently found that the registration of a domain name that is confusingly similar to a well-known trade mark, for example those incorporating a well-known mark plus a descriptive or generic term, as with the addition of "nft" in this case, can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at sections 3.1.4 and 3.2.1).

The Domain Name has been used to advertise services relating to and competitive with those of the Complainants, which is a clear indicator of targeting for commercial gain under paragraph 4(b)(iv) of the Policy. See *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#). Although the advertisements may be served programmatically by a third party, the Respondent cannot disclaim responsibility for them ([WIPO Overview 3.0](#) at section 3.5).

The Respondent was the unsuccessful Respondent in at least two previous disputes under the UDRP: *Gameloft S.E. v. Privacy service provided by Withheld for Privacy ehf / Edward Jarman, MONSOON BLOCKCHAIN*, WIPO Case No. [D2021-4285](#); and *Government Employees Insurance Company v. Withheld for Privacy Purposes, Privacy service provided by Withheld for Privacy ehf / Edward Jarman, MONSOON BLOCKCHAIN*, WIPO Case No. [D2021-4023](#). This shows a pattern of bad faith registration and use of domain names, and this case would appear to be a continuation of that pattern, with the first-cited case also involving the addition of "nft" to a well-known brand.

The Panel draws adverse inferences from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3), the use of a privacy proxy service ([WIPO Overview 3.0](#) at section 3.6), and the provision of false Whois details; the Center's courier could not deliver hardcopies of the Complaint to the Respondent's physical address ([WIPO Overview 3.0](#) at section 3.2.1).

The Complainants have satisfied paragraph 4(a)(iii) 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 Domain Name, <pokerstarsnft.com>, be transferred to the Second Complainant, Rational Intellectual Holdings Limited.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: June 30, 2022