

ADMINISTRATIVE PANEL DECISION

Emphasis Services Limited v. Yi Yuangui

Case No. D2022-1933

1. The Parties

The Complainant is Emphasis Services Limited, Turks and Caicos Islands, United Kingdom, represented by Tsibanoulis & Partners Law Firm, Greece.

The Respondent is Yi Yuangui, China.

2. The Domain Name and Registrar

The disputed domain name <dafa.bet> (the “Domain Name”) is registered with 101domain GRS Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 27, 2022. On May 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 1, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 June 2, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 22, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 23, 2022.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on June 29, 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 Complainant is a private limited company established under English law in the Turks and Caicos Islands, United Kingdom. The Complaint describes the Complainant as “part of the group of companies providing online gaming and betting services under the trademarks DAFA and DAFABET, through licensed group entities” in several countries including the United Kingdom. The group’s principal gambling website (the “Complainant’s website”) is seemingly licensed in various jurisdictions and has operated at “www.dafabet.com” since 2009. The Complainant also holds the domain name <dafa888.com>, registered since July 2003, which is used for redirect pages in conjunction with the Complainant’s website at “www.dafabet.com”.

As reported in the Complaint and in the Wikipedia article about the Complainant, the Complainant’s website has been ranked among the top 50 online gaming sites internationally since 2013, offering sports betting, an online casino, and online games. The Complainant’s group operates DAFA and DAFABET websites and mobile apps targeting many Asian and European markets. In addition to online advertising, the Complainant’s DAFA and DAFABET brands are promoted through sponsorship of sports teams and e-sports clubs.

The Complainant holds numerous trademark registrations including the following:

| MARK | JURISDICTION | REGISTRATION NUMBER | REGISTRATION DATE |
|----------------------|------------------|---------------------|-------------------|
| DAFA (word) | Hong Kong, China | 302048148 | September 9, 2012 |
| DAFABET (word) | European Union | 012067088 | February 17, 2014 |
| DAFABET (figurative) | European Union | 012067138 | February 17, 2014 |

The Registrar’s Whois database shows that the Domain Name was created on March 3, 2016. The Registrar reports that the Domain Name is registered by the Respondent Yi Yuanguai, an individual in China listing no organization.

Archived screenshots found on the Internet Archive’s Wayback Machine show that the Respondent has not developed an active website associated with the Domain Name. Until 2019, the Domain Name resolved to a parking site hosted by the Registrar advertising the Registrar’s services and referring to the page as the “future site” of the Domain Name. Since then, the Domain Name has merely displayed the Domain Name and the Respondent’s email address.

5. Parties’ Contentions

A. Complainant

The Complainant asserts that the Domain Name is identical or confusingly similar to its registered DAFA and DAFABET trademarks and that the Respondent has neither permission to use those marks nor evident rights or legitimate interests in the Domain Name.

Given the online nature of the Complainant’s business and the fact that its marks are distinctive and well-known, the Complainant argues that the Respondent “is likely to have had, at least, constructive, if not actual knowledge” of the Complainant’s marks. The Complainant urges a finding of bad faith despite the Respondent’s non-use of the Domain Name, citing *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#). The Complainant also points to the archived screenshots of the Registrar’s landing page as a “future site” for the Domain Page as “sufficient to characterize a bad faith use under paragraph 4(b)(i) of the Policy” (*i.e.*, evidence of intent to sell the site to the Complainant or a competitor for an excessive price).

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the 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 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 the UDRP “functions primarily as a standing requirement” and entails “a reasoned but relatively straightforward comparison between the complainant’s trademark and the disputed domain name”. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7. The main portion of the Domain Name is identical to the Complainant’s registered DAFA mark, and taking that portion of the Domain Name along with the top-level domain “.bet” produces a string identical to the Complainant’s DAFABET mark, save for the intervening dot ([WIPO Overview 3.0](#), section 1.11.3).

The Panel finds, therefore, that the Domain Name is identical or confusingly similar to the Complainant’s registered DAFA and DAFABET trademarks and concludes that the first element of the Complaint has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the 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 in a UDRP proceeding 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 Complainant has established trademark rights, a lack of permissive use, and the Respondent's failure to use the Domain Name for anything other than advertising the Registrar's services, a possible future website, and a contact email address. Thus, the Complainant has made a *prima facie* case, and the burden of production shifts to the Respondent.

The Respondent has not come forward to offer evidence or arguments suggesting any rights or legitimate interests, and none are apparent on this record. The Panel concludes, therefore, that the Complainant prevails on the second element of the Complaint.

C. Registered and 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):

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or ...

(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 Complainant has established that its DAFA and DAFABET marks are well-known internationally in connection with online gaming. The Panel finds it probable that the Respondent was aware of those marks and selected the Domain Name to exploit them. The marks are distinctive and well-established, they are not based on dictionary words, and the Panel notes that the Respondent registered the Domain Name in the ".bet" Top-Level Domain ("TLD") which was created and originally promoted as a TLD for online betting sites (according to the ICANN application history).

The fact that the Domain Name was parked by the Registrar is inconclusive as to the Respondent's intent to sell the Domain Name to the Complainant or a competitor. However, the Respondent allowed the Registrar to use the Domain Name to attract Internet users for several years and perhaps in some way promote its own commercial services (*e.g.*, via email or other business-facing use), which would fit the circumstances described in the Policy, paragraph 4(b)(iv). Whether or not the Respondent profited from this is immaterial; the Respondent remains responsible for allowing the use of the Domain Name in a manner that infringes on the rights of others. Thus, the Panel finds bad faith under the broader rationale of the Policy, paragraph 4(b)(iv).

The examples of bad faith provided in paragraph 4(b) are not exclusive. Although this is not squarely a "passive holding" case because there has been domain name parking and the posting of contact information, the Respondent has made minimal use of the Domain Name. As in *Telstra, supra*, it is hard to conceive of a plausible reason for which the Respondent could legitimately have registered and used the Domain Name identical or nearly identical to the Complainant's distinctive marks. See [WIPO Overview 3.0](#), section 3.3. The Panel considers it more likely than not that the Respondent selected the Domain Name for its ultimate value in attracting Internet users familiar with the Complainant's marks and concludes that maintaining the Domain Name under these circumstances for website development or resale represents bad faith consistent with the "passive holding" doctrine.

The Panel concludes that the Complainant has established bad faith within the meaning of the Policy and therefore prevails on the third element of the Complaint.

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, <dafa.bet>, be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: July 13, 2022