

ADMINISTRATIVE PANEL DECISION

Red Bull GmbH v. Registration Private, Domains By Proxy, LLC / wangye lin
Case No. D2022-2172

1. The Parties

Complainant is Red Bull GmbH, Austria, represented by TALIENS Partnerschaft von Rechtsanwälten mbB, Austria.

Respondent is Registration Private, Domains By Proxy, LLC, United States of America (“United States”) / wangye lin, Central African Republic.

2. The Domain Name and Registrar

The disputed domain name <redbullf1fan.net> (the “Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 15, 2022. On June 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 16, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on June 17, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on June 20, 2022.

The Center verified that the Complaint together with the amendment to 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 Respondent of the Complaint, and the proceedings commenced on June 23, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 13, 2022. Respondent sent an informal communication on July 3, 2022. The Center notified the Commencement of Panel Appointment Process to the Parties on July 14, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on July 21, 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

Complainant is the producer of the RED BULL energy drink. The RED BULL energy drink was first sold in Austria in 1987 and internationally since 1992. Currently, the RED BULL energy drink is sold in 173 countries all over the world. Its sales volumes have grown from 113 million serving units (250ml) in 1994 to over 7.6 billion worldwide in 2020. In the European Union, the sales volumes have grown from approximately 1.79 billion serving units (2013) to 2.05 billion (2016), 2.17 billion (2017), 2.37 billion (2018), 2.58 billion (2019), and 2.66 billion (2020). In 2013, Complainant invested approximately EUR 1.77 billion worldwide in marketing, which were subsequently increased to approximately EUR 2.21 billion (2016), EUR 2.24 billion (2017), EUR 1.74 billion (2018), EUR 1.81 billion (2019), and EUR 1.61 billion (2020).

Complainant has more than 48 million fans on Facebook and 14.1 million followers on Instagram. Complainant's channel on YouTube reached a cumulative total of over 9.7 million subscribers, more than 218.3 million views and 17.0 million hours watched on YouTube in 2020, with a lifetime total (February 17, 2021) of 3.5 billion views and 176.4 million hours watched. On TikTok, Complainant has 15.0 million followers (December 2020) and the videos were viewed by 1.8 billion users. Complainant has been involved in prestigious international and national events. In 2020, Complainant organized around 500 events in approximately 78 different countries with approximately 351,080 participants. The events have been visited by more than 114,000 spectators in 2020. Since the beginning of its activity, Complainant has organized many adventure sports events worldwide under the RED BULL brand. Complainant is also present in Formula 1 (F1) since many years with two successful teams. As a result, per Complaint, the RED BULL brand has developed considerable reputation and goodwill worldwide.

Complainant owns trademark registrations for RED BULL, including:

- International registration no. 641378, RED BULL (word), registered on February 24, 1995, for goods and services in international classes 3, 5, 12, 14, 16, 18, 20, 25, 26, 28, 29, 30, 32, 33, 34, 35, 39, 41, and 42; and
- European Union registration no. 000052803, RED BULL (word), filed on April 1, 1996, and registered on March 16, 2001, for goods and services in international classes 3, 5, 9, 12, 14, 16, 18, 20, 21, 22, 24, 25, 26, 28, 29, 30, 32, 33, 34, 35, 37, 39, 41, and 42.

The Domain Name was registered on April 16, 2021, and currently resolves to a website in Chinese language (the "Website"), offering adult content and displaying advertisements and links to other commercial websites also containing adult content.

On April 14, 2022, Complainant sent a cease and desist letter to the Registrar. On May 10, 2022, Complainant received an email from 莎莎 having as object the Domain Name <redbullfan.net> stating the following: "5000 usd". On May 25, Complainant replied to this communication sending a cease and desist letter to 莎莎, to which there was no reply.

Lastly, per Complaint, it appears that the data provided for the registrant's address are false: "CF" is the two-letter country abbreviation for Central African Republic. Neither any city named "manila" (which is the capital city of Philippines), nor any street named "shanxishengxianshi" can be found in the Central African Republic. Furthermore, "+1" is the country dial-in code for the United States and not of the Central African Republic (which is +236). There is no postal code "10000" in the Central African Republic (apparently, per Complaint, no postal codes exist in this country).

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for the transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions. Respondent's informal communication received by the Center on July 3, 2022, simply stated "5000 usd".

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements, which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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.

A. Identical or Confusingly Similar

Complainant has demonstrated rights through registration and use on the RED BULL trademark.

The Panel finds that the Domain Name is confusingly similar to the RED BULL trademark.

The Domain Name incorporates Complainant's RED BULL mark in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The addition of the terms "f1" (short for FORMULA 1) and "fan" in the Domain Name does not prevent a finding of confusing similarity, as the RED BULL trademark remains clearly recognizable (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8).

The generic Top-Level Domain ("gTLD") ".net" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Name is confusingly similar to the RED BULL mark.

Complainant has established paragraph 4(a)(i) of the Policy

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent of the dispute, 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) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Name, even if it has acquired no trademark or service mark rights; or

(iii) 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.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not replied to Complainant's contentions and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per the Complaint, Respondent was not authorized to register the Domain Name.

There is no evidence that Respondent has been commonly known by the Domain Name.

Prior to the notice of the dispute, Respondent did not demonstrate any use of the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant has demonstrated, the Domain Name leads to the Website that features adult content and displays advertisements and links to other commercial websites containing also adult contents.

Furthermore, the Domain Name was offered for sale for USD 5,000.

The use of a domain name to host a page containing adult content and sponsored listings to websites with adult content does not represent a *bona fide* offering where such links capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users, such as in the case at issue (*MatchNet plc. v. MAC Trading*, WIPO Case No. [D2000-0205](#)).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in bad faith:

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or

(iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or

location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. Complainant's mark RED BULL had been widely used and registered at the time of the Domain Name registration by Respondent. Furthermore, as repeatedly recognised, Complainant's mark enjoys worldwide reputation (*Red Bull GmbH v. Christos Bozikis*, WIPO Case No. [D2021-3457](#); *Red Bull GmbH v. Amin Iqbal, Aminz Tech*, WIPO Case No. [D2021-1295](#); *Red Bull GmbH v. Isaac Goldstein, Domain for Sale Check Afternic.com*, WIPO Case No. [D2019-0957](#); *Red Bull GmbH v. Mohammed Elhemed, Red Bull Effects*, WIPO Case No. [D2018-0321](#)). Therefore, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#)).

Respondent should have known about Complainant's rights, as such knowledge is readily obtainable through a simple browser search (*Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis, Inc.*, WIPO Case No. [D2009-0462](#)).

Moreover, Respondent could have searched different trademark registry databases and would have found Complainant's prior registrations in respect of the RED BULL trademark (*Citrix Online LLC v. Ramalinga Reddy Sanikommu Venkata*, WIPO Case No. [D2012-1338](#)).

As regards bad faith use, Complainant demonstrated that the Domain Name leads to a website displaying adult content and including links to other websites with such content. Accordingly, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website, by creating a likelihood of confusion with Complainant's mark. It has been recognized that use of another's trademark to generate revenue from Internet advertising can constitute registration and use in bad faith (*McDonald's Corporation v. ZusCom*, WIPO Case No. [D2007-1353](#); *Volkswagen Aktiengesellschaft v. Robert Brodi*, WIPO Case No. [D2015-0299](#); *SAP SE v. Domains by Proxy, LLC / Kamal Karmakar*, WIPO Case No. [D2016-2497](#); [WIPO Overview 3.0](#), section 3.5).

The Domain Name use furthermore tarnishes Complainant's reputation by suggesting a connection between Complainant and adult services. This is an indication of bad faith use ([WIPO Overview 3.0](#), section 3.12; *Christian Dior Couture v. Identity Protection Service / Tom Birkett*, WIPO Case No. [D2014-1053](#)).

In addition, Complainant has demonstrated that the Domain Name was offered for sale for an amount that likely exceeds the acquisition price paid by Respondent.

Lastly, the Domain Name was registered providing, per Complainant, false contact details of Respondent.

Under these circumstances and on this record, the Panel finds that Respondent has registered and is using the Domain Name in bad faith.

Complainant has established Policy paragraph 4(a)(iii).

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, <redbull1fan.net>, be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: August 4, 2022