

## **ADMINISTRATIVE PANEL DECISION**

Flutter Entertainment plc and Rational Intellectual Holdings Limited v. Ma Pei Zhi

Case No. D2022-2291

### **1. The Parties**

Complainants are Flutter Entertainment plc, Ireland, and Rational Intellectual Holdings Limited, Isle of Man, represented by Demys Limited, United Kingdom (“UK”) (hereinafter collectively referred to as the “Complainants”).

Respondent is Ma Pei Zhi, China.

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

The disputed domain name <pokerstars6.com> (hereinafter the “Disputed Domain Name”) is registered with Gname.com Pte. Ltd. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 24, 2022. On June 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 12, 2022, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on July 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 2, 2022.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on August 9, 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 are two entities within a group of related companies. Complainants operate one of the largest poker website in the world under the POKERSTARS mark, a mark that they have used continuously since 2001. For the past 20 years, Complainants have hosted the championship of online poker on the POKERSTARS website, and as of the year 2020, Complainants offered their online poker services to more than 13 million people in over 100 countries. Complainants own multiple trademark registrations internationally for the POKERSTARS mark, including United States Trademark Registration No. 7,854,2627 (Registered February 12, 2008), European Union Trademark Registration No. 004582301 (Registered December 15, 2006), UK Trademark Registration No. 904582301 (Registered December 15, 2006), and Chinese Trademark Registration No. 12172289 (Registered July 28, 2014) (collectively the "POKERSTARS Marks").

Complainants operate several official country-specific POKERSTARS websites to which Internet users are redirected when visiting Complainants' official website at the <pokerstars.com> domain name, a domain name that was registered on March 11, 2001.

Respondent registered the Disputed Domain Name on May 13, 2021, long after Complainants registered their POKERSTARS Marks. At the time the Complaint was filed, the webpage associated with the Disputed Domain Name displayed Chinese pornographic content and hyperlinks to third-party gambling and pornographic websites. The webpage associated with the Disputed Domain Name is now inactive.

On March 17, 2022, Complainants sent a cease and desist letter to Respondent; however, Respondent did not send a reply to the letter.

#### **5. Parties' Contentions**

##### **A. Complainants**

Complainants assert that their POKERSTARS mark is famous as a result of their exclusive and continuous use of the mark for at least the past 20 years. Complainants points to their large number of social media followers as evidence of this fame. Due to Complainants' extensive use of the POKERSTARS mark, Complainants contend that Respondent was aware Complainants' POKERSTARS mark and their rights therein, and purposefully registered the Disputed Domain Name to monopolize on Complainants' goodwill in the mark. Complainants claim that the inclusion of the number "6" does nothing to eliminate the confusing similarity of the Disputed Domain Name to their POKERSTARS mark.

Complainants further assert that Respondent lacks rights or legitimate interests in the Disputed Domain Name because Respondent has never used the Disputed Domain Name in connection with a *bona fide* offering of goods or services. Specifically, the Disputed Domain Name resolved to a website that contain links to pornography and gambling websites. Therefore, Complainants contend that Respondent merely holds the Disputed Domain Name to capitalize on the goodwill of Complainants' POKERSTARS mark.

Additionally, Complainants contend that Respondent registered and is using the Disputed Domain Name in bad faith because Respondent intentionally attempted to attract, for commercial gain, Internet users to the Disputed Domain Name by creating a likelihood of confusion with Complainant's POKERSTARS mark. Further, Complainants argue the Disputed Domain Name's incorporation of third party links to pornography and gambling websites is evidence of bad faith registration and use of the Disputed Domain Name.

## B. Respondent

Respondent did not reply to Complainants' contentions.

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

The Panel finds that Complainants' trademark registrations establish that they have rights in the POKERSTARS Marks. The Panel further finds that the Disputed Domain Name is confusingly similar to Complainants' POKERSTARS Marks. The addition of the number "6" in the Disputed Domain Name does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.8; see also, e.g., *Carvana, LLC v. Domain Privacy, Above.com Domain Privacy*, WIPO Case No. [D2021-0290](#) ("The addition of a number and a gTLD does not negate confusing similarity between a domain name and a trade mark contained within it. The addition of the number "40" and the gTLD ".com" does not prevent a finding of confusing similarity between the Domain Name [[40carvana.com](#)] and the Complainant's CARVANA mark, which is still clearly recognisable in the Domain Name."); and *Government Employees Insurance Company v. Domain Admin, Whois Privacy Corp.*, WIPO Case No. [D2021-1401](#) (finding the domain name [1geico.com](#), confusingly similar to complainant's GEICO trademark).

### B. Rights or Legitimate Interests

Complainants have presented a *prima facie* case for Respondent's lack of rights or legitimate interests in the Disputed Domain Name, which Respondent has not rebutted. Complainants have not authorized Respondent to use their trademark. Respondent also has not answered this Complaint and there is no evidence or reason to suggest Respondent is, in fact, commonly known by the Disputed Domain Name or that Respondent is using the Disputed Domain Name in connection with a *bona fide* offering of goods or services. Specifically, the Disputed Domain Name resolves to a pornographic website featuring advertising links for gambling websites and additional pornographic content. As the services featured on the Disputed Domain Name website are competitive with Complainants' online gambling services offered in connection with their POKERSTARS Marks, Respondent is using the Disputed Domain Name to mislead consumers and derive a commercial benefit through the collection of click-through revenue, which cannot be a *bona fide* use of the Disputed Domain Name. See [WIPO Overview 3.0](#), section 2.6; see also *Legacy Health System v. Nijat Hassanov*, WIPO Case No. [D2008-1708](#). Additionally, redirection to pornographic websites is never considered a fair or *bona fide* use of a domain name. See, e.g., *Andrey Ternovskiy dba Chatroulette v. Protection of Private Person / Aleksandr Katkov*, WIPO Case No. [D2017-0381](#) (finding the respondent's use of the domain name [chatroulletelolz.com](#) to redirect Internet users to pornographic websites "should and could not be considered a *bona fide* offering of goods or services"); see also *Bayerische Motoren Werke AG v. Shilin Li*, WIPO Case No. [D2021-1573](#) (finding no *bona fide* offering of goods or services or legitimate noncommercial or fair use where "[r]espondent is currently using the disputed domain name on a webpage featuring pornographic and gambling content").

Therefore, the Panel finds that Respondent does not have rights or a legitimate interests in the Disputed Domain Name and that Complainants have satisfied paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

The Panel finds that Respondent acquired the Disputed Domain Name fully aware of Complainants' rights. As Respondent has not denied Complainants' allegations that their marks are famous, the Panel infers that Respondent most likely knew of Complainants' world-famous POKERSTARS Marks when Respondent registered the Disputed Domain Name. As such, Respondent registered the Disputed Domain Name in bad faith. See *Veuve Cliquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#) (bad faith is found where a domain name "is so obviously connected with such a well-known

product that its very use by someone with no connection with the product suggests opportunistic bad faith”).

Additionally, Respondent has used the Disputed Domain Name in bad faith, specifically to redirect Internet visitors to a web page featuring links to competing gambling websites, intentionally creating a likelihood of confusion with Complainants’ trademark for Respondent’s financial gain. See *Wayfair LLC v. Xiamen Privacy Protection Service Co., Ltd. / zhang qin*, WIPO Case No. [D2018-2032](#); see also *Wal-Mart Stores Inc. v. Frank Warmath*, WIPO Case No. [DTV2008-0013](#) (“When a domain name incorporating a famous mark is used to attract Internet traffic to fuel click-through revenues which trade on the reputation of that mark, a conclusion of bad faith registration and use under paragraph 4(a)(iii) of the Policy is unavoidable.”).

Moreover, the use of a domain name to tarnish a complainant’s trademark, including for commercial purposes in connection with pornographic content, constitutes evidence of a respondent’s bad faith. See [WIPO Overview 3.0](#), section 3.12. See also *Red Bull GmbH v. Whois Agent, Domain Protection Services, Inc. / esco escortlar, escort sitesi*, WIPO Case No. [D2017-1639](#) (finding the respondent’s use of the domain for a pornographic website constituted “a strong indication of bad faith registration and use,” because it showed respondent’s main purpose was “to create a likelihood of confusion among customers and/or to tarnish the Complainant’s RED BULL trademark for commercial gain or any other illegitimate benefit”). The current inactive use of the Disputed Domain Name does not prevent a finding of bad faith under the passive holding doctrine. See [WIPO Overview 3.0](#), section 3.3.

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 Disputed Domain Name <pokerstars6.com> be transferred to Complainant Rational Intellectual Holdings Limited.

*/Lawrence K. Nodine/*

**Lawrence K. Nodine**

Sole Panelist

Date: August 26, 2022