

ADMINISTRATIVE PANEL DECISION

beIN Media Group LLC v. Hassan ait Ibiid
Case No. D2022-2337

1. The Parties

The Complainant is beIN Media Group LLC, Qatar, represented by Tmark Conseils, France.

The Respondent is Hassan ait Ibiid, Morocco.

2. The Domain Name and Registrar

The disputed domain name <bein-iptv.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 28, 2022. On June 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 28, 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 July 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 22, 2022.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on July 28, 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 media group created in 2003 under the Al Jazeera Sport trade name. As of 2012 it adopted the “beIN Sport” denomination and trademark and has used it in connection with subscriptions to TV channels, websites, and mobile apps in its broadcasting territories, which comprise countries in the Middle East and North Africa (including Qatar, Saudi Arabia, the United Arab Emirates, Bahrain, Kuwait, Egypt, Algeria, Tunisia and Morocco); Europe; South East Asia (including Thailand, Indonesia, Singapore and Malaysia); Australia and New Zealand; and North America (United States of America and Canada).

It is the owner of the following, amongst others, trademark registrations (Annexes 4.1 – 4.4 to the Complaint):

- Moroccan trademark registration No. 161779 for the word mark BEIN, registered on September 2, 2014, in International classes 18, 21, 24, 25, 28 and 43;
- Moroccan trademark registration No. 161781 for the word and device mark BEIN, registered on September 2, 2014, in International classes 9, 16, 18, 21, 24, 25, 28, 35, 38, 41 and 43;
- European Union Trade Mark registration No. 010617058 for the word mark BEIN filed on February 6, 2012, registered on June 15, 2012, in International classes 9, 16, 35, 38 and 41; and
- African Intellectual Property Organization (“OAPI”) trademark registration No. 81603 for the word and device mark BEIN, registered on November 19, 2014, in International classes 9, 16, 18, 21, 24, 25 and 28.

The disputed domain name <bein-iptv.com> was registered on April 1, 2018 and presently resolves to a parked webpage stating that the “website will be back online as soon as possible”, it has been used in connection with a website offering paid streaming services including sports content (Annex 3 to the Complaint).

5. Parties’ Contentions

A. Complainant

The Complainant asserts to be an international leader in the media market, notably for broadcasting of major sport events and entertainment, having its BEIN trademark continuously and regularly communicated since its creation in 2012 worldwide and in particular in the European Union, the Middle-East, Asia, the United States of America and Africa; which lead it to become well-known, as found in past URDP decisions.

According to the Complainant, the reputation of the BEIN trademark arises from the fact the Complainant’s trademark is known worldwide as being the leading sport and entertainment global network, which represents several million subscriptions to more than 60 TV channels in 43 countries within Europe, North America, Asia, Australia, the Middle East and North Africa.

The Complainant furthermore states to own and communicate on the Internet through various websites, amongst which <beinsports.com> (registered on October 07, 2010), <bein.com> (registered on April 22, 1997) and <beinmediagroup.com> (registered on June 21, 2014).

In the Complainant’s view, the disputed domain name reproduces the Complainant’s well-known trademark with the generic term “iptv” which is not sufficient to overcome the confusing similarity with the Complainant’s trademark and, quite to the contrary, only serves to exacerbate the risk of confusion with the Complainant’s trademark.

Moreover, the Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name given that:

- (i) BEIN is not a generic term but a registered distinctive and famous trademark owned by the Complainant;
- (ii) the Respondent is not known by the disputed domain name; and
- (iii) the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, rather relying on the fame of the Complainant's trademark to attract Internet users to its website offering competing services;
- (iii) the Respondent has not been commonly known by the disputed domain name, nor does it hold trademarks relating to the disputed domain name.

As to the registration of the disputed domain name in bad faith the Complainant argues that in light of the well-known status of the BEIN trademark and the Complainant's services, the Respondent specifically targeted the Complainant seeking to create a false association, sponsorship or endorsement with the Complainant. Given the MX-records that are set up for the disputed domain name (Annex 7 to the Complaint), the Complainant contends that there is a risk that Respondent is using the disputed domain name in e-mail communication in an attempt to pass off as the Complainant for fraudulent purposes.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain name.

In accordance with paragraph 14(a) of the Rules, if the Respondent does not submit a Response, in the absence of exceptional circumstances, the Panel shall decide the dispute based upon the Complaint.

A. Identical or Confusingly Similar

The Complainant has established its rights in the registered BEIN trademark.

The Panel finds that the disputed domain name reproduces the Complainant's trademark in its entirety and is therefore confusingly similar to it. It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), sections 1.7 and 1.10).

The first element of the Policy has therefore been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a non-exclusive list of circumstances that indicate a respondent's rights to or legitimate interests in a disputed domain name. These circumstances are:

- (i) before any notice of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, in spite of not having acquired trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Respondent, did not formally respond to the Complaint, it has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights to or legitimate interests in the disputed domain name. This entitles the Panel to draw any such inferences from such default as it considers appropriate pursuant to paragraph 14(b) of the Rules. Nevertheless, the burden of proof is still on the Complainant to make a *prima facie* case against the Respondent.

In that sense, the lack of evidence as to whether the Respondent is commonly known by the disputed domain name or the absence of any trademarks registered by the Respondent corresponding to the disputed domain name, indicates that the Respondent, named Hassan ait Ibiid does not hold rights or legitimate interests in the disputed domain name.

Also, the past use of the disputed domain name in connection with the offer of competing services to the Complainant's ones, cannot characterize a *bona fide* use of the disputed domain name.

Under these circumstances and absent evidence to the contrary, the Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

The second element of the Policy has therefore been established.

C. Registered and Used in Bad Faith

The Policy indicates in paragraph 4(b) that bad faith registration and use can be found in view of:

- (i) circumstances indicating that the Respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring it to the Complainant who is the owner of a trademark relating to the disputed domain name or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name; or
- (ii) the Respondent has registered the disputed 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 the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent's website or other location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The registration and use of the disputed domain name in bad faith can be found in the present case in view of the following circumstances:

(i) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name;

(ii) the Respondent's use of the disputed domain name in connection with competing services;

(iii) the Respondent's potential use of the disputed domain name in connection with email addresses (Annex 7 to the Complaint);

(iv) the well-known status of the Complainant's trademark and the nature of the disputed domain name (reproducing the entirety of the Complainant's trademark) suggests rather a clear indication of the Respondent's registration and holding of the disputed domain name in bad faith, with the implausibility of any good faith use to which the disputed domain name may be put; and

(v) the use of a false address in the Whois data and, consequently, the Center not being able to have communications fully delivered to it.

For the reasons as those stated above, the Panel finds that the disputed domain name was registered and is being used in bad faith pursuant to paragraph 4(b)(i) of the Policy.

The third element of the Policy has therefore 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 name <bein-iptv.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: August 9, 2022