

ADMINISTRATIVE PANEL DECISION

beIN Media Group LLC v. Bouya Samir
Case No. D2022-3472

1. The Parties

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

The Respondent is Bouya Samir, Germany.

2. The Domain Name(s) and Registrar(s)

The disputed domain name <beinmatch.best> is registered with OVH (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 20, 2022. On September 21, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 21, 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. In addition, the Center sent an email communication in both German and English regarding the language of the proceeding on September 22, 2022. The Complainant replied on the same day requesting English to be the language of the proceeding and the Respondent did not submit any comments.

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 in both German and English, and the proceedings commenced on September 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 20, 2022.

The Center appointed Andrea Mondini as the sole panelist in this matter on October 25, 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 an international media group based in Qatar offering subscriptions to TV channels, websites and mobile apps in numerous countries worldwide. It was originally created in 2003 as Al Jazeera Sport and changed its name in 2012 to be IN Sport.

The Complainant owns numerous trademarks registrations for its trademark BEIN, *inter alia*, the European Union Trademark BEIN (No. 010617058 registered on June 15, 2012).

The Complainant also holds several domain names, including the domain names <bein.com> and <beinsports.com>.

The disputed domain name was registered on November 30, 2019.

The disputed domain name resolves to a website in Arabic language reproducing the Complainant's trademark and providing football related content as well as links to products advertising and dating sites.

5. Parties' Contentions

A. Complainant

The Complainant contends as follows:

The disputed domain name is confusingly similar to the BEIN trademark in which the Complainant has rights, because it incorporates this trademark in its entirety, and the addition of the word "match" is not sufficient to avoid confusing similarity but rather exacerbates it, because the word "match" is an unambiguous reference to the sports content provided by the Complainant. The generic Top-Level Domain ("gTLD") ".best" is not relevant to the determination of confusing similarity, as they are disregarded when considering whether the disputed domain name is confusingly similar to the earlier trademarks.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The mark BEIN is internationally well-known and is associated with the Complainant, since this trademark has been extensively used to identify the Complainant and its media services. The Respondent has not been authorized by the Complainant to use this trademark and there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in connection with a *bona fide* offering of goods and services.

The disputed domain name was registered and is being used in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well known trademark BEIN at the time it registered the disputed domain name, and because the redirection to a website reproducing the Complainant's trademark and providing football related content as well as links to product advertising and dating sites constitutes use in bad faith. In addition, mail exchanger records (MX records) have been set up for the disputed domain name, which indicates that the disputed domain name might be used for spamming or phishing attacks.

B. Respondent

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

6. Discussion and Findings

6.1. Language of the proceedings

Pursuant to Paragraph 11(a) of the Rules, "Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding".

Pursuant to Paragraph 11(a) of the Rules, and despite the fact that the registration agreement for the disputed domain name designates German, the Panel accepts that the language of the proceeding shall be English, particularly in light of the fact that (i) the disputed domain name resolves to sports content including the presence of a disclaimer in English, (ii) the disputed domain name is composed of English terms, and (iii) the Respondent has not objected to English being the language of the proceeding and has not submitted a response.

6.2. Analysis

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (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.

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant owns trademark registrations for its BEIN trademark in numerous jurisdictions.

The Panel notes that the disputed domain name incorporates the BEIN trademark in its entirety. The addition of the word "match" does not prevent a finding of confusing similarity under Policy, paragraph 4(a)(i). See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

The gTLD ".best" is disregarded when considering whether the respective disputed domain name is confusingly similar to the earlier trademarks.

For these reasons, the Panel concludes that the disputed domain name is confusingly similar to the Complainant's mark BEIN.

The first element of paragraph 4(a) of the Policy has been met.

B. Rights or Legitimate Interests

The Complainant states it has not authorized the Respondent to use the trademark BEIN and that before notice of the dispute, there is no evidence of the Respondent's use, or demonstrable preparation to use, the disputed domain name in good faith. The Panel does not see any contrary evidence from the record.

In the view of the Panel, the Complainant has succeeded in raising a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. For its part, the Respondent failed to provide any explanations as to any rights or legitimate interests. Therefore, the Panel finds that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The second element of paragraph 4(a) of the Policy has been met.

C. Registered and Used in Bad Faith

The Complainant has shown to the satisfaction of the Panel that its BEIN trademark is internationally well-known.

In the view of the Panel, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's well-known trademark, particularly considering that the word "match" is an unambiguous reference to the sports content provided by the Complainant. In the circumstances of this case, this is evidence of registration in bad faith.

The disputed domain name resolves to a website reproducing the Complainant's trademark and providing football related content. By using the confusingly similar disputed domain name to display related content to Complainant's business, without any explanation of the lack of relationship to the Complainant, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark. In the view of the Panel, such use of the disputed domain name constitutes use in bad faith according to paragraph 4(b)(iv) of the Policy.

Furthermore, the Respondent furnished incomplete contact information while registering the disputed domain name, evidenced by the inability of the courier to deliver the Center's written communication to the address disclosed by the Registrar for the Respondent.

The Panel thus finds that the disputed domain name was registered and is being used in bad faith.

The third element of paragraph 4(a) of the Policy has been met.

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 <beinmatch.best> be transferred to the Complainant.

/Andrea Mondini/

Andrea Mondini

Sole Panelist

Date: November 8, 2022