

## **ADMINISTRATIVE PANEL DECISION**

Tottenham Hotspur Limited v. c f, fc  
Case No. D2022-4695

### **1. The Parties**

The Complainant is Tottenham Hotspur Limited, United Kingdom (“UK”), represented by Walker Morris Solicitors, UK.

The Respondent is c f, fc, United States of America (“US”).

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

The disputed domain name <tottenhamhospur.com> is registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 7, 2022. On December 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 9, 2022, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Whois Privacy Protection Service by onamae.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 12, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on December 28, 2022.

On December 12, 2022, the Center notified the Parties in both English and Japanese that the language of the registration agreement for the disputed domain name is Japanese. On December 13, 2022, the Complainant confirmed its request in the Complaint that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint, together with the amended 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 English and Japanese, and the proceedings commenced on December 29, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 20, 2023.

The Center appointed Keiji Kondo as the sole panelist in this matter on January 24, 2023. 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 Tottenham Hotspur Football Club, an English professional football club founded in 1882 based in Tottenham, London, which competes in the Premier League, the top flight of English football. The team are traditionally referred to as Tottenham Hotspur or "Spurs" for short. The Complainant has enjoyed significant success both domestically and internationally and enjoys a global fanbase.

The Complainant has registered almost 900 trademarks worldwide. The Complainant has established and operates their brand on a global scale. The Complainant has trademark registrations for TOTTENHAM HOTSPUR all over the world. The following trademark registration is included in the list of the Complainant's trademark registrations:

Japanese International Trademark Registration for TOTTENHAM HOTSPUR;  
International Registration No. 1211256;  
Classes 9, 38, and 41;  
International Registration Date: March 28, 2013; and  
Domestic Registration Date: July 5, 2019.

The disputed domain name was registered on February 14, 2022. The disputed domain name resolves to a website where the Respondent advertises in Chinese pornographic content and gambling products.

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

##### **A. Complainant**

The disputed domain name is visually, aurally, and conceptually highly similar, to the trademark TOTTENHAM HOTSPUR for which the Complainant has an abundance of rights. In addition, the Complainant would submit that the distinctive elements of the disputed domain name are the words "tottenham" and "hospur". It is clear that the distinctive elements of the disputed domain name replicate a substantial part of the trademark TOTTENHAM HOTSPUR, despite the fact that the "t" of "hotspur" has been intentionally omitted. In the context of the Policy, the use of such a distinctive element could only be construed as being related to the trademark TOTTENHAM HOTSPUR and by extension the Complainant.

In summary, the disputed domain name replicates a sign for which the Complainant owns a significant number of trademark registrations. The Complainant is an internationally recognized brand and any use of the disputed domain name would automatically suggest an association with the Complainant, or would cause confusion in the mind of the average consumer that such an association exists. This is in direct contravention of the Policy and on this basis the disputed domain name is confusingly similar to the Complainant's trademark within the meaning of paragraph 4(a)(i) of the Policy.

The Complainant submits that the Respondent has no right or legitimate interest in respect of the disputed domain name within the meaning of paragraph 4(a)(ii) of the Policy.

As of the date of this Complaint, there is no evidence to suggest that since the date of registration the Respondent's use of the disputed domain name is in connection with a *bona fide* offering of goods or services. Reviewing the website to which the disputed domain name resolves makes it clear that it does not host a legitimate webpage.

The Respondent has at no stage been commonly known by the disputed domain name and has no relevant registered trademark rights. The Respondent is not making legitimate noncommercial or fair use of the disputed domain name.

It is clear from the disputed domain name that the Respondent intends to make commercial gain by misleadingly diverting consumers to the disputed domain name. The effect being to tarnish the Complainant's trademark at issue. As will be set out in further detail below, the disputed domain name has been registered by the Respondent with the sole intention of distributing pornographic content and selling gambling products.

As stated above, the Respondent has made no legitimate use of the disputed domain name.

The Complainant further submits that the disputed domain name was both registered in bad faith and is being used in bad faith within the meaning of paragraph 4(a)(iii) of the Policy. Attention should be paid to the relevant aspects of paragraph 4(b) of the Policy, including:

- the Respondent is using the disputed domain name in a manner that directly seeks to disrupt the business of the Complainant and is, in any event, detrimental to the business of the Complainant;
- the Respondent is distributing pornographic content and selling gambling products;
- clearly the use of the disputed domain name in this manner increases the risk that the Complainant's fans will be misled or be exposed to content they did not expect. This will cause direct economic loss to the Complainant and will increase the likelihood of the Complainant's associated consumers raising complaints with the Complainant; and
- the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the disputed domain name, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the disputed domain name.

The Respondent has undertaken the above detailed acts deliberately and this represents a course of conduct that demonstrates that the disputed domain name was registered, and is now being used, in bad faith.

Accordingly, the Complainant respectfully requests that the disputed domain name be transferred to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1. Preliminary Issue: Language of the Proceeding**

In the Complaint, the Complainant acknowledges that the language of the Registration Agreement for the disputed domain name is Japanese. The Complainant, however, submitted the Complaint in English, requesting that English be the language of the proceeding. On December 12, 2022, the Center notified the Parties in both English and Japanese that the language of the registration agreement for the disputed

domain name is Japanese. On December 13, 2022, the Complainant confirmed its request in the Complaint that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

Considering the following circumstances, the Panel, exercising its authority to determine the language of the proceeding under paragraph 11(a) of the Rules, has decided English as the language of the proceeding:

- the Complaint was filed in English;
- the Complainant is a UK entity, and represented by a UK law firm;
- the Respondent's address is in US;
- the Complainant's trademark is the name of a football team in UK, and, thus, it is part of the English culture and language;
- the Respondent's website is written in Chinese, but not in Japanese;
- the Complainant has submitted its request that English be the language of the proceeding, but the Respondent did not comment on the language of the proceeding;
- the Respondent did not reply to the Complainant's contentions in any manner; and
- ordering the translation of the Complaint would only result in extra delay of the proceeding and additional cost for the Complainant.

## **6.2. Substantive Issues**

### **A. Identical or Confusingly Similar**

The first element functions primarily as a standing requirement. In this case, the disputed domain name is almost identical to the Complainant's trademark, the only difference being the omission of "t" from "hotspur". With the most distinctive portion of the Complainant's trademark, "tottenham", incorporated in entirety, the Complainant's trademark is recognizable in the disputed domain name, even with the omission to "t" from "hotspur". The gTLD ".com" is not relevant in the appreciation of confusing similarity.

Therefore, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark.

Accordingly, paragraph 4(a)(i) of the Policy is satisfied.

### **B. Rights or Legitimate Interests**

The Respondent's name is "c f, fc", which is in no way similar to the disputed domain name. In addition, when the Respondent registered the disputed domain name, it used a privacy registration service to conceal its identity. Therefore, the Panel finds that the Respondent has never been commonly known by the disputed domain name or the Complainant's trademark.

The disputed domain name resolves to a website where the Respondent advertises pornographic content and gambling products. Such a use is obviously a commercial use, and does not fall into the category of legitimate noncommercial or fair use.

As will be discussed with respect to the third element, the Respondent uses the disputed domain name in bad faith, and, therefore, the Respondent cannot be regarded as using the disputed domain name for *bona fide* offering of goods or services.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

### **C. Registered and Used in Bad Faith**

The Complainant's trademark is well known. Football fans would easily recognize the Complainant's trademark TOTTENHAM HOTSPUR in the disputed domain name, overlooking the omission of "t" from "hotspur".

The disputed domain name was registered on February 14, 2022, more than a century after the foundation of the Complainant's football team. One of the Complainant's international trademark registrations was registered in 2013, and it has been verified and registered in Japan. The same international trademark registration is also recognized through Madrid Designation in such countries as: Australia, Colombia, Norway, Philippines, Republic of Korea, and Singapore. Therefore, it is inconceivable that the Respondent had no knowledge of the Complainant's trademark at the time of registration of the disputed domain name.

It is obvious from the above-mentioned circumstances, that the Respondent is using the disputed domain name to attract the attention of the Complainant's fans, and to mislead them to the Respondent's website, where the Respondent advertises pornographic content and gambling products. Therefore, the Panel finds that the Respondent registered the disputed domain name with an intention to create a likelihood of confusion with the Complainant, and has been using it to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Therefore, the Panel finds that the disputed domain name has been registered and is being used in bad faith.

Accordingly, paragraph 4(a)(iii) of the Policy is satisfied.

### **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, <tottenhamhospur.com>, be transferred to the Complainant.

*/Keiji Kondo/*

**Keiji Kondo**

Sole Panelist

Date: February 7, 2023