

ADMINISTRATIVE PANEL DECISION

Fédération Internationale de Football Association (FIFA) v. Zamanda Garcia Case No. D2023-2357

1. The Parties

The Complainant is Fédération Internationale de Football Association (FIFA), Switzerland, represented by Corsearch, Netherlands.

The Respondent is Zamanda Garcia, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <fifawc26.com> 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 May 31, 2023. On June 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 1, 2023, 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 June 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2023. The Respondent did not submit any response.

Since it appeared that the Center’s Written Notice of the Complaint was not sent to the Respondent’s address in compliance with paragraph 4(c) of the Rules, on July 3, 2023 the Center mailed the said document to the Respondent’s address, allowing the Respondent a five calendar days (*i.e.* July 8, 2023) to indicate whether it wishes to submit a response. The Respondent did not submit any response and the Center notified the Respondent’s default on July 12, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on July 18, 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, founded in 1904 is the international governing body of football, comprising of 211 national associations.

The Complainant is the organizer of major international football tournaments, including the quadrennial world football championship known as the FIFA World Cup, which is one of the world's most watched sports competitions.

Based on the June 23, 2018 decision of the FIFA's 68th Congress, the upcoming FIFA World Cup 2026 will be played in United States, Canada, and Mexico.

The Complainant is among others owner of the following trademark registrations covering wide array of goods and services, including organization of football events: International Trademark Registration No. 633108 for the word mark FIFA, registered since February 22, 1995; International Trademark Registration No. 613159 for the word mark FIFA WORLD CUP, registered since October 27, 1993; United States Trademark Registration No. 2352934 for the word mark FIFA, registered since May 30, 2000 and United States Trademark Registration No. 3949726 for the word mark FIFA WORLD CUP, registered since April 26, 2011.

The Complainant among others owns the domain name <fifa.com>, which was registered on August 9, 1995 and resolves to its principal website.

The disputed domain name was registered on September 21, 2019 and is parked free, courtesy of the Registrar at a website which contains sponsored links to third party websites.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name, which incorporates the entirety of its FIFA trademark is confusingly similar to it because the addition of the letters "w" and "c" and the number "26", which together is abbreviation used in connection with its World Cup 2026 event does not sufficiently distinguish the disputed domain name from the trademark.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy.

The Complainant contends that the Respondent has registered and is using the disputed domain in bad faith. Given the world wide recognition of its FIFA trademark, it is unlikely that the Respondent was unaware of the Complainant and its trademark at the time of registration of the disputed domain name, which it registered and is using for financial benefits through sponsored links advertisements of third parties' goods and services.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that;

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

Under paragraph 4(a)(i) of the Policy, there are two requirements which the Complainant must establish, first that it has rights in a trademark or service mark, and second that the disputed domain name is identical or confusingly similar to the trademark or service mark.

It has been a consensus view among UDRP panels that if the complainant owns a nationally or regionally registered trademark, then it generally satisfies the threshold requirement of having trademark rights.

The Complainant produced evidence of having registered rights in the FIFA and FIFA WORLD CUP trademarks by virtue of the registrations listed above, which satisfy the requirement of having trademark rights for the purpose of the Policy.

According to section 1.7 of the [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#), the standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name.

According to section 1.11.1 of the [WIPO Overview 3.0](#), the applicable generic Top-Level Domain ("gTLD") in a domain name (in this case ".com") is viewed as a standard registration requirement and as such is generally disregarded under the first element confusingly similar test.

The Panel finds that the Complainant's FIFA trademark is reproduced and is readily recognizable in the disputed domain name. The only difference between the FIFA trademark and the disputed domain name is the addition of letters "w" and "c" and the number "26", which together are commonly used to describe the Complainant's World Cup 2026 competition.

According to section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element and the Panel finds that the disputed domain name is therefore confusingly similar to the Complainant's FIFA trademark and that the first ground of the Policy is established.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice of the dispute, its use of, or demonstrable preparation to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

According to section 2.1 of the [WIPO Overview 3.0](#), while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent.

As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with the relevant evidence demonstrating its rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

In the present case, the Complainant has submitted sufficient and uncontested evidence that it holds well-established prior rights in the FIFA and FIFA WORLD CUP trademarks.

The Complainant has never authorized the Respondent to use its trademarks, in a domain name, or otherwise.

There is no evidence that the Respondent is commonly known by the disputed domain name.

The disputed domain name has been linked to a parking page with various pay-per-click (“PPC”) links. Such use of the disputed domain name does not represent *bona fide* offering of goods or service since its trades on reputation and goodwill associated with the Complainant (see section 2.9 of the [WIPO Overview 3.0](#)).

In addition, as the disputed domain name is composed of the Complainant’s FIFA trademark and the abbreviation exclusively related to the Complainant’s major global competition, the disputed domain name carries a risk of implied affiliation with the Complainant and the use of it cannot be considered fair (see section 2.5.1 of the [WIPO Overview 3.0](#)).

The Respondent failed to respond, and by doing so failed to offer the Panel any type of evidence set forth in paragraph 4(c) of the Policy, or otherwise counter to the Complainant’s *prima facie* case and the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of factors which, if found by the panel to be present, shall be evidence of registration and use of a domain name in bad faith. This non-exclusive list includes:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

- (ii) you have 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.

It has been well-established in prior decisions under the UDRP, with which the Panel agrees, that the Complainant's FIFA trademark is globally famous (see *e.g. ISA Marketing and Federation Internationale de Football Association v. Jonathan Nutt*, WIPO Case No. [D2000-0363](#)).

Prior UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith (see section 3.1.4 of the [WIPO Overview 3.0](#)).

The Respondent's replication of the Complainant's well-known FIFA trademark in the disputed domain name, along with the abbreviation commonly used to describe the Complainant's primary global competition convinces the Panel that the Respondent clearly had the FIFA trademark in mind at the time of registration and that it registered the disputed domain name in order to target the Complainant and its well-known trademark within the meaning of paragraph 4(b)(iv) of the Policy.

The disputed domain name has been parked free, courtesy of the Registrar at a website which contains various sponsored links to third party websites. In view of the Respondent's responsibility for the content appearing on the website associated with its domain name, "automatically" generated PPC links (in this case by the Registrar) by itself do not prevent a finding of bad faith, regardless of whether the Respondent directly profits or not of such use of the disputed domain name (see section 3.5 of the [WIPO Overview 3.0](#)).

The Panel therefore finds that the disputed domain name was registered and is being used in bad faith within the meaning of 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 <fifawc26.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: August 1, 2023