

ADMINISTRATIVE PANEL DECISION

beIN Media Group L.L.C v. Bein Ksa
Case No. D2023-3759

1. The Parties

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

The Respondent is Bein Ksa, Saudi Arabia.

2. The Domain Name and Registrar(s)

The disputed domain name <beinksa.net> is registered with Hostinger, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 8, 2023. On September 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 12, 2023, 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 (Domain Admin, Privacy Protect LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 12, 2023, 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 on September 12, 2023.

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, and the proceedings commenced on September 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 5, 2023.

The Respondent sent an email communication to the Center on October 6, 2023. The Center sent a possible settlement email to the Parties on October 10, 2023, and a follow-up email on October 24, 2023. On October 25, 2023, the Complainant confirmed by email that they did not wish to suspend the proceedings.

The Center appointed Zoltán Takács as the sole panelist in this matter on November 3, 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, which is a media group registered under the laws of the State of Qatar has developed its business under the name beIN Sport in 2012.

The Complainant is one of the international leaders in the media market for broadcasting of major sport events and entertainment, offering subscriptions to TV channels, websites and mobile app in its broadcasting territories that comprise countries in the Middle East, North Africa, Europe, South East Asia, Oceania and North America.

The Complainant owns numerous trademark registrations around the world comprising of or consisting of the term BEIN, including the Saudi Arabian Trademark Registration No. 143304889 for the word mark BEIN registered on January 2, 2013.

The Complainant is present on the Internet through various websites, including “www.bein.com” and “www.beinsports.com”. The corresponding domain names have been registered on April 11, 1997 and October 7, 2010 respectively.

The disputed domain name was registered on October 19, 2021, and has resolved to an Arabic language website related to sports, specifically football, and displaying the Complainant’s trademark and signature logos.

Currently the website at the disputed domain name is inactive.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- the disputed domain name is confusingly similar to its well-known BEIN trademark, since it incorporates the trademark with the addition of the term “ksa”, which is the English language abbreviation for the Kingdom of Saudi Arabia;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name, and
- the Respondent registered the disputed domain name being aware of the Complainant’s activities, intending the take unfair advantage of its well-known trademark.

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.

However, as mentioned above, on October 6, 2023, the Respondent sent an informal email to the Center stating among others that its domain was "hacked" and that "anything that was on this domain in the previous period, it wasn't me who did it".

The Respondent has not provided any evidence to support its assertion and entirely failed to address the case merits. Therefore, the Panel is unable to accept the Respondent's so-called "informal response", which it treats in a similar manner as a respondent default. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.3.

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

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's BEIN trademark is reproduced in the disputed domain name, which varies from the trademark by addition of the term "ksa", which is the English language abbreviation for the Kingdom of Saudi Arabia. This difference between the trademark and the disputed domain name does not prevent a finding of confusing similarity. [WIPO Overview 3.0](#), section 1.8.

The applicable Top Level Domain ("TLD") in the disputed domain name (in this case ".net"), which is a standard registration requirement is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the disputed domain name is confusingly similar to the BEIN mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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 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 relevant evidence demonstrating 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has made 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2;
- the Respondent (as an individual, business, or other organization) has not been commonly known by the disputed domain name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3;
- the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4, and
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the disputed domain name.

As shown by the Complainant, the Respondent used the disputed domain name, consisting of the Complainant's trademark and the abbreviation of the Respondent's country of domicile and the market to which the corresponding website was directed, to confuse Internet users in all likelihood looking for the Complainant through redirecting them to its own website extensively displaying the Complainant's trademark and signature logos without any authorization. Furthermore, the Respondent claimed to be an official distributor of the Complainant's services in Saudi Arabia. This cannot constitute fair use as it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line locations, 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. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The Complainant, being one of the leading sport and entertainment global networks has several million subscribers to more than 60 TV channels in 43 countries of the world. It has been well-established in prior decisions under the UDRP, with which the Panel agrees, that the Complainant's BEIN trademark is well-known (see e.g. *beIN Group L.L.C. v. Alaattin Bulut*, WIPO Case No. [D2019-2089](#) and *beIN Media Group LLC v. Hassan ait Ibiid*, WIPO Case No. [D2022-2337](#)).

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. [WIPO Overview 3.0](#), section 3.1.4.

The Respondent's replication of the Complainant's well-known trademark in the disputed domain name, the use of its signature logos on the website at the disputed domain name along with its declaration of being an official distributor of the Complainant's services in Saudi Arabia convinces the Panel that the Respondent registered the disputed domain name with actual knowledge and intent of targeting the Complainant and its well-known trademark.

Currently, the disputed domain name does not resolve to an active website.

However, having reviewed the record, the Panel notes the distinctiveness and well-known status of the Complainant's trademark, the composition of the disputed domain name as mentioned above, the Respondent's failure to provide any good faith explanation as to its registration of the disputed domain name, as well as the implausibility of any good faith use to which the disputed domain name may be put. Accordingly, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. [WIPO Overview 3.0](#), section 3.3.

Based on the available record, the Panel finds that the third element of the Policy has 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 <beinksa.net> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: November 17, 2023