

## **ADMINISTRATIVE PANEL DECISION**

Seven Network (Operations) Limited v. sushmita sharma  
Case No. D2023-4441

### **1. The Parties**

The Complainant is Seven Network (Operations) Limited, Australia, represented by Herbert Smith Freehills, Australia.

The Respondent is sushmita sharma, United States of America.

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

The disputed domain name <7plusconnect.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 26, 2023. On October 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 26, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 27, 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 November 1, 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 November 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 5, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on December 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 is an Australian corporation which, together with its parent entity Seven West Media Limited, operates Australia's highest rated television network. In addition to its prime Channel 7, the Complainant offers a range of digital channels, including a broadcaster video-on-demand ("BVOD") service called "7PLUS", which the Complainant has operated since 2017 from its website at "www.7plus.com.au", with more than 13 million users currently.

The Complainant owns Australian Trade Mark Registration No. 1313980 7PLUS in classes 9, 16, 18, 35, 38 and 41, with a registration date of August 7, 2009.

The Domain Name was registered on April 1, 2023, and resolves to a website entitled "7Plus Connect" which purports to explain to users how to use the Complainant's 7PLUS BVOD service, referring to the Complainant's parent entity, Seven West Media, by name. The website prominently includes a hyperlinked banner stating, "Get Started With Code", which, when clicked, redirects to a website at <gravod.com> which includes links to streaming services that compete with the Complainant (the "Gravod website"). The Complainant's evidence establishes that this website previously incorporated pay-per-click ("PPC") advertisements for streaming services competitive with the Complainant.

#### **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 Domain Name. Notably, the Complainant contends that the Domain Name was registered and used in bad faith to intentionally attract Internet users to the Gravod website by creating a likelihood of confusion with the Complainant's 7PLUS service for the Respondent's commercial gain.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **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 trade mark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Panel finds the Complainant has shown rights in respect of a trade mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel finds the entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds 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.

Although 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 difficult 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 relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). 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.

The Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the 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 Domain Name such as those enumerated in the Policy or otherwise.

For the reasons discussed in relation to bad faith below, it is likely that the Domain Name was registered to take advantage of the Complainant’s reputation in its mark for the Respondent’s commercial gain. The Respondent’s registration and use of the Domain Name in these circumstances cannot represent a *bona fide* offering of goods or services under paragraph 4(c)(i) of the Policy and cannot confer rights or legitimate interests (*Sistema de Ensino Poliedro Vestibulares Ltda., Editora Poliedro Ltda. v. Anonymize, Inc. / STANLEY PACE*, WIPO Case No. [D2022-1981](#)).

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.

The following factors indicate an intention on the Respondent’s part to attract Internet users to the Gravod website by creating a likelihood of confusion with the Complainant’s 7PLUS service for the Respondent’s commercial gain, falling squarely within paragraph 4(b)(iv) of the Policy:

- The general impression of the website to which the Domain Name resolves, referring to the Complainant’s parent entity (amongst other things), is that it is an official online presence of the Complainant.
- The Composition of the Domain Name, consisting of the Complainant’s 7PLUS mark plus a term descriptive of the Complainant’s industry, “connect”, likewise creates the impression of an official presence of the Complainant.
- The Complainant’s mark is well known. UDRP panels have consistently found that registration of a domain name that is confusingly similar to a famous or well known trade mark by an unaffiliated entity can by itself create a presumption of bad faith.
- The Domain Name redirects to a website that advertises services competitive with the Complainant.

See [WIPO Overview 3.0](#) at section 3.1.4.

The Panel finds that the Complainant has established the third element 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 Domain Name <7plusconnect.com> be transferred to the Complainant.

*/Jeremy Speres/*

**Jeremy Speres**

Sole Panelist

Date: January 1, 2024