

ADMINISTRATIVE PANEL DECISION

Sun International (IP) Limited v. Viktor Parfonov
Case No. D2023-4857

1. The Parties

The Complainant is Sun International (IP) Limited, South Africa, represented by Adams & Adams Attorneys, South Africa.

The Respondent is Viktor Parfonov, Ukraine.

2. The Domain Names and Registrar

The disputed domain names <sun-bet.org>, <sunbet-sa.com>, and <sunbet-sa.net> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 22, 2023. On November 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 24, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 24, 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 24, 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 December 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 10, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on January 23, 2024. 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. Further Procedural Considerations

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's postal address is stated to be in Ukraine (whether or not this is indeed accurate), which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel notes that the Center has sent the Notification of Complaint by email to the Respondent at its email address as registered with the Registrar. There is no evidence that the case notification email to this email address was not successfully delivered.

It is moreover noted that, for the reasons which are set out later in this Decision, the Panel has no serious doubt (albeit in the absence of a formal Response) that the Respondent registered and has used the disputed domain names in bad faith and with the intention of unfairly targeting the Complainant's goodwill in its trademark.

On this basis, the Panel concludes that the Parties have been given a fair opportunity to present their cases, and proceeds to issue the present decision on the substance of the dispute.

5. Factual Background

The Complainant, a public company incorporated in South Africa is a wholly owned subsidiary of Sun International Limited and part of the Sun International Group.

The Complainant is among others owner of the South African Trademark Registration No. 2012/24241 for the word mark SUNBET, registered since September 7, 2012, for various betting services, including sport's betting.

The Complainant first launched its SUNBET online sports betting facility in November 2013 in South Africa.

The Complainant's primary portal for conducting its online sports betting business is located at "www.sunbet.co.za". The website offers close to 100,000 markets up to 5,000 events of 40 sports per week, trading in close to 4,000 live events weekly. The domain name <sunbet.co.za> was registered on September 8, 1999.

The disputed domain names were registered on September 14 and 21, 2023 and have all been resolving to online betting websites referencing the Complainant and its services and reproducing or adopting some of the content from the Complainant's official website, including the Complainant's signature logo.

6. 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 names.

Notably, the Complainant contends that:

- the disputed domain names, which all incorporate its SUNBET trademark are confusingly similar to it;
- the Respondent has no rights or legitimate interests in respect of the disputed domain names;
- the Respondent was aware of its SUNBET mark when the disputed domain names were registered and has acquired the disputed domain names to take unfair advantage of the reputation and goodwill in the mark.

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

B. Respondent

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

7. Discussion and Findings

7.1. Procedural Matter - Multiple Domain Names

The amended Complaint was filed in relation to three domain names.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

The disputed domain names were registered by the same Respondent and the Panel finds that this requirement is fulfilled.

7.2. Substantive Matters – Three Elements

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 names are 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 names; and
- (iii) the domain names have been registered and are 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 names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

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.

In case of the disputed domain names <sunbet-sa.com> and <sunbet-sa.net> the entirety of the mark is reproduced within the disputed domain names with addition of a hyphen and the term “sa”, which can reasonably be interpreted as the common abbreviation for South Africa.

In case of the disputed domain name <sun-bet.org> the mark, separated by a hyphen is recognizable within the disputed domain name.

Although the addition of other terms, in this case “sa” may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The applicable generic Top-Level Domain (“gTLD”) in the disputed domain names (in this case “.com”, “.net” and “.org”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

Accordingly, the disputed domain names are 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.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

The Respondent has not only failed to respond and disclose its relationship (or lack of thereof) with the Complainant but has actively impersonated the Complainant.

As shown by the Complainant, the Respondent has been using the disputed domain names to confuse Internet users presumably looking for the Complainant through redirecting them to its own online betting and gaming websites which reference the Complainant and its services and reproduce or adopt some of the content from the Complainant official website, including displaying the Complainant’s signature logo.

Panels have held that the use of a domain name for illegal activity – here impersonation / passing off - can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Having reviewed the record, the Panel finds that the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

The Complainant's mark is inherently distinctive for the services at issue that is for online betting and gaming. A basic Internet search with regard the disputed domain names returns almost exclusively the Complainant and its business.

In the present case, the Panel notes that the Respondent incorporated the Complainant's mark in the disputed domain names and has been using them to redirect Internet users to its websites which to considerable degree resemble the Complainant's official website and display the Complainant's signature logo.

Thus, in view of the Panel the Respondent obviously had actual knowledge of the Complainant's business and trademark at the time of registration of the disputed domain names and had registered them in order to target the Complainant and its trademark through impersonation or false association, which is evidence of bad faith. [WIPO Overview 3.0](#), section 3.4.

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 disputed domain names <sun-bet.org>, <sunbet-sa.com>, and <sunbet-sa.net> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: January 30, 2024