

ADMINISTRATIVE PANEL DECISION

Red Bull GmbH v. Gergana Raycheva, Edoms LLC
Case No. D2024-1005

1. The Parties

The Complainant is Red Bull GmbH, Austria, represented by TALIENS Partnerschaft von Rechtsanwälten mbB, Germany.

The Respondent is Gergana Raycheva, Edoms LLC, Bulgaria.

2. The Domain Name and Registrar

The disputed domain name <redbullmediabase.com> is registered with DropCatch.com 742 LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 6, 2024. On March 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same date, the Registrar transmitted by email to the Center its verification response, confirming that the Respondent is listed as the registrant and its 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 March 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 10, 2024. The Respondent did not formally submit any response. On April 11, 2024, the Complainant informed the Center that it had received email communications from a party that might be related to the Respondent offering the disputed domain name for sale. On April 12, 2024, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Geert Glas as the sole panelist in this matter on April 29, 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. Factual Background

The Complainant is the producer of the Red Bull energy drink which was first sold in Austria in 1987 and internationally since 1992. It is now commercially available in 174 different countries and in 2022 11.6 billion serving units of the Red Bull energy drink were sold.

Since its launch, the Complainant has put an important focus on marketing efforts. In 2022 its worldwide marketing expenses amounted to EUR 2.28 billion.

The Complainant organizes and sponsors various sports and cultural events. Sport events include the Oracle Red Bull Formula 1 racing team and the ownership or sponsorship of a number of professional soccer clubs worldwide. On the cultural scene the Complainant organizes and sponsors a number of cultural events worldwide such as the Red Bull Music Academy, the Red Bull BC One (an international break dance competition) and Red Bull Art of the Can.

Within the organization of the Complainant, Red Bull Media House, a dedicated global media company oversees the planning, producing, managing and distribution of content of all Red Bull events and projects.

The Complainant owns a large number of national and international trademark registrations which consist of or contain the words Red Bull and cover an extensive range of goods and services. These trademark registrations include:

- International word trademark n° 641378 RED BULL with a priority date of September 1, 1994, registered on February 24, 1995;
- European Union word trademark n° 52803 RED BULL, registered on March 16, 2001.

It cannot be disputed that as a result of the abovementioned sales, marketing expenses, cultural and sports activities, the RED BULL mark enjoys a strong reputation and is well known on a global basis as has been confirmed by numerous UDRP panels.

It appears from the annexes to the Complaint that from 2011 until 2018 Red Bull Media Base was the Complainant's internal content platform and that on November 14, 2011 the Complainant registered the disputed domain name for use by this internal content platform. In 2018 the Complainant ceased the use of this content platform and subsequently let the disputed domain name expire after November 14, 2021.

The disputed domain name was then again registered on January 5, 2022. It appears from the evidence provided by the Complainant that the disputed domain name dynamically redirects to different webpages amongst others a website offering pornographic content and a parking web page with Pay-Per-Click links.

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 its registered trademark RED BULL is fully included in the disputed domain name and that the addition of the generic/descriptive terms "media" and "base" does not prevent the confusing similarity between the disputed domain name and the Complainant's trademark. This is certainly the case as the terms "media" and "base" are merely descriptive for the Complainant's internal content platform which it used between 2011 and 2018.

The Complainant also contends that it has not licensed or otherwise permitted the Respondent to use any of its RED BULL trademarks or any variations or combinations thereof and that to best of its knowledge, the Respondent is not commonly known by the disputed domain name. The Respondent's use of the disputed domain name cannot constitute a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name since it redirects, inter alia, to a commercial website with adult content. This is also the case as the disputed domain name also redirects to a parking website comprising links which capitalize on the reputation and goodwill of the Complainant's trademarks.

According to the Complainant, the fact that the disputed domain name combines the Complainant's RED BULL mark with the words "media" and "base" falsely suggests an affiliation/endorsement by the Complainant due to the Complainant's content platform Red Bull Media Base which used the disputed domain name from 2011 to 2018, prior to the Complainant letting it expire in 2021.

The Complainant also contends that the disputed domain name incorporates the Complainant's well-known mark, such that the Respondent knew or should have known that its registration would be confusingly similar to the Complainant's mark. Here, bad faith registration can also be deduced from the timing and circumstances of the registration and particularly following the Complainant's failure to renew the disputed domain name registration.

The Complainant finally contends that the disputed domain name has been used in bad faith as it is redirected to webpages including a commercial website with adult content and a parking web page with Pay-Per-Click links. According to the Complainant, this indicates that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location by creating a likelihood of confusion with the Complainant's RED BULL mark on the source, sponsorship, affiliation or endorsement of its website or location or of a product or service on its website or location.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. On April 11, 2024, the Complainant informed the Center that it had received email communications from a party that might be related to the Respondent offering the disputed domain name for sale.

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 trademark and the disputed domain name. 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.

The entirety of the Complainant's RED BULL mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "media" and "base" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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 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.

There is indeed no evidence whatsoever of the Respondent being permitted to use the disputed domain name, of the Respondent using the disputed domain name (or having demonstrable plans for such use) in the framework of a bona fide offering, of the Respondent being commonly known by the disputed domain name or of the Respondent making a legitimate noncommercial or fair use of the disputed domain name.

To the contrary, the Respondent has used the disputed domain name to dynamically redirect Internet users to webpages including a commercial website with adult content and a parking website comprising Pay-Per-Click links which capitalize on the reputation and goodwill of the Complainant’s RED BULL mark.

Moreover, the presence of the words “media” and “base” in the disputed domain name creates an even increased risk of affiliation with the Complainant due to the Complainant’s Red Bull Media Base content platform which used the disputed domain name from 2011 to 2018. In November 2021 the Complainant let the disputed domain name expire. A couple of months later the disputed domain name was (re)registered for redirecting users to various websites, which would not support a claim to rights or legitimate interests. As a result, the Respondent has not put the disputed domain name to a fair use.

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.

As to the registration of the disputed domain name, it should be noted that panels have consistently found that the mere registration of a domain name which is 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.

This is clearly the case here, as RED BULL had become a widely-known trademark by the time the disputed domain name was registered. As a result, the Respondent knew or should have known that its registration of the disputed domain name which fully incorporates Complainant’s RED BULL mark would be confusingly

similar to the Complainant's mark. The fact that the Respondent registered the disputed domain name only months after the Complainant let it expire after having put it in use between 2011 and 2018 by its Red Bull Media Base content platform corroborates this finding.

Based on the available record, the Panel finds that the disputed domain name has been registered in bad faith.

Paragraph 4(b)(iv) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name is being used in bad faith: by using the domain name the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation or endorsement of its website or location or a product or service on its website or location.

In the present case, the disputed domain name which is confusingly similar to the Complainant's RED BULL mark dynamically redirects to various websites, including a website which offers adult entertainment services and a parking page with Pay-Per-Click links. This use clearly constitutes an intentional attempt by the Respondent to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's RED BULL mark as to the source, affiliation or endorsement of the websites to which the disputed domain name resolves.

In view of the activities of the Complainant under its RED BULL mark and the prior use of the disputed domain name by the Complainant, it is indeed hard to envisage any good faith use by the Respondent of the disputed domain name.

It should be noted though that the Respondent could have brought forward any such argument in support of the good faith nature of its registration and use of the disputed domain name by filing a response to the Complaint. The Respondent has however opted not to seize this opportunity to provide any justification for its actions.

As a result and based on the available record, the Panel finds that the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy and 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 <redbullmediabase.com> be transferred to the Complainant.

/Geert Glas/

Geert Glas

Sole Panelist

Date: May 13, 2024