

ADMINISTRATIVE PANEL DECISION

Umbrella Development B. V. v. al gruul
Case No. D2024-2748

1. The Parties

The Complainant is Umbrella Development B. V., Curaçao, Netherlands (Kingdom of the), represented by Legarithm OÜ, Estonia.

The Respondent is al gruul, Philippines.

2. The Domain Name and Registrar

The disputed domain name <4rabetofficial.com> (“Disputed 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 July 5, 2024. On July 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 8, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 12, 2024, 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 amendment to the Complaint on July 16, 2024.

The Center verified that the Complaint together with the amendment to 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 July 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 8, 2024.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on August 21, 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 a well-established online betting company incorporated under the laws of Curaçao, Netherlands (Kingdom of the) in 2019. The Complainant operates several websites offering online casinos and gambling services, including those under its well-known 4RABET brand with over 1,000,000 active users in India, Bangladesh, Brazil and Uzbekistan.

The Complainant owns Indian Trademark Registration No. 5289978 for 4RABET registered on January 18, 2022 in Class 41 (the “Complainant’s Trademark”).

The Complainant’s Trademark is fully incorporated in the Complainant’s domain names <4rabet.com> registered on September 16, 2018 and <4rabetsite.com> registered on October 20, 2022 respectively, each of which resolves to the Complainant’s website (the “Complainant’s Website”).

The Disputed Domain Name was registered by the Respondent on February 24, 2024. The Complainant alleges that at the time of the Complaint, the Disputed Domain Name resolved to a website displaying the Complainant’s Trademark accompanied by the Indian national flag and prominently displaying the text “Welcome to our store”, although the Complainant did not exhibit a screenshot or printout of such content. At the time of the Decision, the Disputed Domain Name resolved to website displaying the header text “4rabetofficial” and offering a variety of online gambling-related blog posts in English and Vietnamese (the “Respondent’s Website”).

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:

(a) The Disputed Domain Name is confusingly similar to the Complainant’s Trademark. The Disputed Domain Name reproduces the Complainant’s Trademark in its entirety. The only difference between the Disputed Domain Name and the Complainant’s Trademark is the descriptive term “official”, which does not differentiate the Disputed Domain Name from the Complainant’s Trademark as it is generic and used by a wide range of businesses to indicate the official nature of their products or services.

(b) The Respondent has no rights or legitimate interests in the Disputed Domain Name. There is no evidence that the Respondent has relevant trademark rights, nor has the Complainant given permission, licensed or otherwise authorized the Respondent to use the Complainant’s Trademark.

(c) The Respondent has registered the Disputed Domain Name and is using it in bad faith. The Respondent’s Website included various features to suggest that it is related to the Complainant and the Complainant’s business, and makes clear repeated mentions of the Complainant’s Trademark. Moreover, the Respondent’s Website pretended to be an official website originating from the Complainant by way of its incorporation of the term “official” in both the Disputed Domain Name and on the Respondent’s Website. Furthermore, the Respondent’s Website is clearly being used for commercial activity and has diverted Internet traffic from the Complainant’s Website. In conjunction with the similar features found on

Respondent's Website, as well as the Disputed Domain Name and the multiple mentions of Complainant's Trademark, the Respondent's registration of the Disputed Domain Name should be inferred to be for the primary purpose of disrupting the Complainant's business for commercial gain by creating a likelihood of confusion with the Complainant's Trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's Website and the content it contains therein.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered and is being used by the Respondent 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 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 the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Complainant's Trademark 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 term, in this case "official", 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 Name and the Complainant's Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8. Furthermore, it is well established that the generic Top-Level Domain ("gTLD"), ".com" in this case, may be disregarded. See section 1.11.1 of the [WIPO Overview 3.0](#).

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.

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name. The Panel further notes the distinctiveness and established reputation of the Complainant's Trademark and the Complainant's Website as well as the fact that there is no evidence that the Respondent has become known by the Disputed Domain Name, nor has the Complainant provided any licence or authorisation of any kind to the Respondent to use the Complainant's Trademark or to apply for or use any domain name incorporating the Complainant's Trademark. Panels have previously held that rights or legitimate interests cannot be created where the user of the domain name at issue would not choose such names unless he was seeking to create an impression of association with the complainant (see *LEGO Juris A/S v. DomainPark Ltd, David Smith, Above.com Domain Privacy, Transure Enterprise Ltd, Host master*, WIPO Case No. [D2010-0138](#); see also *Drexel University v. David Broud*, WIPO Case No. [D2001-0067](#)). The Respondent would likely not have adopted the Complainant's Trademark if not for the purpose of creating an impression that the Disputed Domain Name is associated with, or originates from, the Complainant, especially given that the Respondent's Website offers online gambling-related content in the same business area the Complainant operates, and the heading of the Respondent's Website also adopted the Complainant's Trademark and is suggestive of the Complainant's Website. Furthermore, the Disputed Domain Name incorporates the Complainant's Trademark in its entirety and is highly similar to the Complainant's <4rabet.com> domain name. The Disputed Domain Name therefore carries a risk of implied affiliation as it effectively suggests sponsorship or endorsement of the Complainant, as the term "official" is a term commonly used by businesses to indicate the official nature of their offerings. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel notes that it is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that it has incorporated the Complainant's Trademark in its entirety. Also, as discussed above, the Respondent lacks any rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)). Further, the Respondent failed to respond to the Complainant's contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

Panels have previously held that a finding of bad faith can be established where a complainant's trademark is shown to be well-known or in wide use at the time of registration of the disputed domain name (see *LEGO Juris A/S v. store24hour*, WIPO Case No. [D2013-0091](#)). The Respondent is likely to have been fully aware of the Complainant, the Complainant's Trademark and the Complainant's Website when it registered the Disputed Domain Name, given the online gambling-related content on the Respondent's Website, the fact that the registration of the Complainant's Trademark predates that of the Disputed Domain Name, as well as the Respondent's unauthorised use of the Complainant's Trademark in the Respondent's Website.

Furthermore, the Panel finds that by using the inherently misleading Disputed Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website in accordance with the paragraph 4(b)(iv) of the Policy. Having reviewed the record, the Panel finds the Respondent's registration and use of the Disputed Domain Name constitutes bad faith under the Policy.

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 Name <4rabetofficial.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: September 4, 2024