

ADMINISTRATIVE PANEL DECISION

Sanctum IP Holdings Ltd v. Andrew Barker
Case No. D2024-3408

1. The Parties

The Complainant is Sanctum IP Holdings Ltd, Antigua and Barbuda, represented by SafeNames Ltd., United Kingdom (“UK”).

The Respondent is Andrew Barker, UK.

2. The Domain Name and Registrar

The disputed domain name <bodog-br.com> is registered with Key-Systems GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 20, 2024. On August 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 22, 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 August 23, 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 amended Complaint on August 27, 2024.

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 August 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 19, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 23, 2024.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on October 1, 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, founded in 1994, operates in the online betting and gambling services, specialized in sports betting and online casino offerings, under the brand BODOG. The Complainant operates internationally, with presence in other jurisdictions such as UK, Canada and South America, and it operates primarily through its official websites “www.bodog.eu” and “www.bodog.com”, which have considerable Internet traffic.¹ The Complainant’s platform was ranked fourth by Reader’s Digest in the Best Gambling Sites in Canada for 2024. The Complainant is active on social media, it has been an official sports betting partner or shirt sponsor for various UK Premier League soccer teams, and it has sponsored major sporting events such as the “Copa do Brasil” in 2018.

The Complainant owns various trademark registrations for its BODOG brand, including European Union Trade Mark Registration No. 004491387, BODOG, word, registered on October 27, 2006, in Classes 35, 36, and 41; UK Trademark Registration No. UK00904491387, BODOG, word, registered on October 27, 2006, in Classes 35, 36, and 41; and Canada Trademark Registration No. TMA799015, BODOG, word, registered on June 1, 2011, in Class 41, (collectively hereinafter referred as the “BODOG mark”).

The Complainant uses at its websites a favicon consisting of a red lower-case letter “b” within a black square, and these websites further include at their heading and within their content a stylized BODOG mark with the following graphic representation:



The Complainant further owns various domain names corresponding to its brand, including <bodog.eu> (registered on June 11, 2007), and <bodog.com> (registered on February 21, 2000), which resolve to its main gambling platforms, as well as <bodog.co.uk> (registered on October 9, 2006), <bodog.ag> (registered on August 6, 2007), <bodog.net> (registered on February 21, 2000), <bodog.africa> (registered on August 1, 2017), and <bodog.org> (registered on February 21, 2000).

The disputed domain name was registered on December 13, 2022, and it resolves to a website in Portuguese language that offers sports betting, online casino offerings, and other gambling services. This website includes a red lower-case letter “b” within a black square as its favicon, and the BODOG mark at its heading in red lower-case letters (identical to the above representation used by the Complainant), with the terms “br.com” in white lower-case letters below the mark and the Brazilian flag. The BODOG mark is also reproduced in other sections of the page with the same graphic representation. At the end of the page, the BODOG mark with the term “br.com” and the Brazilian flag is identically reproduced beside the sections for Terms and Conditions, Privacy, Registry, Support, Disputes, and Responsible Gambling; and, after the titles of these sections, at the very end of the page, it includes the following note:

“Bodog-br.com não é www.bodog.com. Observe que as atividades do nosso projeto bodog-br.com não estão de forma alguma relacionadas ao www.bodog.com – o site oficial de entretenimento de apostas e jogos. Não aceitamos apostas nem oferecemos serviços de jogos de azar. Todas as informações fornecidas neste site são apenas para conhecimento geral.”

¹According to the evidence provided by the Complainant, its website “www.bodog.eu” received over 3.6 million visits between April and June 2024, and “www.bodog.com” received 372,000 visits during the same period.

Which can be translated as follows:

“Bodog-br.com is not www.bodog.com. Please note that the activities of our bodog-br.com project are in no way related to www.bodog.com – the official betting and gaming entertainment website. We do not accept bets or offer gambling services. All information provided on this website is for general information only.”

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 the BODOG mark. It includes this trademark in its entirety in addition to the suffix “-br”, which refers to the country code for Brazil and functions as a geographical term, and the generic Top-Level Domain (“gTLD”) “.com”, which it is a standard registration requirement disregarded under the first element. The BODOG mark is wholly incorporated and recognizable in the disputed domain name.

The Complainant further contends the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no registered or unregistered rights over the term “bodog,” is not authorized to use the Complainant’s trademark, and the disputed domain name is not used in connection with a bona fide offering of goods or services, but to host a website that copies the Complainant’s official website, uses the BODOG mark, and impersonates the Complainant. The Respondent’s website purports to offer online gambling services under the Complainant’s name, and it redirects Internet users to competing offerings in the online gambling industry, so when users click 'REGISTER WITH BODOG', 'BET NOW' and 'PLAY NOW', among others, they are redirected to a competitor website.

The Complainant contends the disputed domain name was registered and is being used in bad faith. The BODOG mark is highly distinctive and has a strong reputation within its sector. Any search over the Internet reveals the Complainant and its trademark, and the term “bodog” has no dictionary meaning, so the Respondent had likely in mind the mark when he registered the disputed domain name; the addition of the geographical indicator for Brazil, the term “-br”, a key jurisdiction in which the Complainant operates, corroborates the targeting. The Respondent’s website copies the Complainant’s official websites and impersonates the Complainant purporting to represent its Brazilian platform, it does not prominently disclaim its lack of relationship with the Complainant, and redirects traffic to competing gambling platforms from which the Respondent seeks to generate commercial benefits.

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, inter alia, in paragraph 10 of the Rules.

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, namely the BODOG mark. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name, separated by a hyphen from the letters "br". The Panel finds the mark is recognizable 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, the letters "-br" separated by a hyphen, may bear on assessment of the second and third elements, the Panel finds the addition of such element 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.

Therefore, 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 finds no evidence in the record that may suggest the existence of rights or legitimate interests in the Respondent for the registration of the disputed domain name.

The Panel notes the term "bodog" is not included in the dictionary and, therefore, has no particular meaning. Additionally, the Panel notes that neither this term nor this term together with the suffix "-br" share any similarity with the Respondent's name revealed by the Registrar verification, and the Respondent owns no trademark rights over these terms. In this respect, the Panel, under its general powers, has corroborated the evidence provided by the Complainant with a trademark search over the Global Brand Database.

Furthermore, the Panel finds the composition of the disputed domain name generates confusion or association with the Complainant's trademark and its various domain names. The disputed domain name gives the impression of being owned or referred to the Complainant and/or its affiliated companies for Brazil,

a country where the Complainant operates and has promoted its trademark, i.e., sponsoring the soccer championship “Copa do Brasil” 2018, suggesting an implied false affiliation with the Complainant and the BODOG mark. [WIPO Overview 3.0](#), section 2.5.1.

The Panel further notes that the disputed domain name is used in connection with a website that reproduces the color combination, general design or look and feel of the Complainant’s corporate websites at “www.boddog.eu” and “www.bodog.com”.² The Panel further notes the Respondent’s website prominently includes the BODOG mark as well as the same logo and favicon used by the Complainant, and various images from the Complainant’s official websites. Therefore, the Panel finds the Respondent’s website generates confusion or association with the Complainant and its corporate websites, in an attempt of impersonating the Complainant and of giving the impression it is owned by the Complainant and/or its affiliated companies for Brazil. Therefore, the Panel finds that such use cannot be considered a bona fide offering of goods or services and cannot confer rights or legitimate interests under the Policy. Panels have held that the use of a domain name for illegal activity here, claimed impersonation or passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel has further corroborated that, according to the Complainant’s allegations, the Respondent’s website redirects Internet users to competing third parties’ websites in the online gambling industry. Such use of the Complainant’s BODOG mark to generate traffic through a false affiliation or confusion, in order to divert such traffic to a competing platform, can never be considered a bona fide offering of goods or services under the Policy. The Panel finds the inclusion in the Respondent’s website of hyperlinks, which redirect Internet users to third party online gambling platforms allegedly offering competing betting and gambling services of other origin, does not constitute a bona fide offering of services nor a legitimate noncommercial or fair use under the Policy.

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 the content of the Respondent’s website reveals a targeting to the Complainant, its BODOG mark, and its online platforms. The Panel finds the Respondent’s website impersonates the Complainant and is intended to mislead Internet users into believing that they are dealing with the Complainant, its authorized or affiliated companies. The Respondent’s website is a copycat of the Complainant’s sites, and it prominently includes the BODOG mark, the logo and favicon used by the Complainant in its corporate websites, as well as various images from the Complainant’s websites, which constitutes bad faith under the Policy. Panels have held that the use of a domain name for illegal activity, such as impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Panel further notes the disputed domain name incorporates the BODOG mark followed by a geographical indicator, the letters “br” separated by a hyphen, which contributes to or enhances the confusion or affiliation. The disputed domain name gives the impression of being owned or referred to the Complainant and/or one of its affiliated companies for the Brazilian market. The Panel considers this composition further reflects an intention of targeting the Complainant, its platform and its trademark, to generate confusion and create a direct misleading inference of the Complainant. These circumstances further support a finding of bad faith.

²In this respect, the Panel has corroborated the content of the Complainant’s websites through the evidence on the record regarding these sites provided by the Complainant. These websites are restricted or not available in the jurisdiction where the Panel resides.

Therefore, on the basis of the evidence presented, the Panel finds that, by using the 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 and its trademark. Such use constitutes bad faith under the paragraph 4(b)(iv) of the Policy.

The Panel further notes that the Respondent's website includes at its very end a disclaimer note. However, the Panel finds such note may probably will go unnoticed to Internet users, or, if perceived, it would be noticed only after incurring in the error of considering the Respondent's website to be owned or related to the Complainant and its business. Therefore, the Panel finds such disclaimer has no impact in the assessment of this case. The overall circumstances of this case point to the Respondent's bad faith, so the mere existence of this disclaimer cannot cure such bad faith. On the contrary, such disclaimer amounts to an admission by the Respondent that users may be confused. [WIPO Overview 3.0](#), section 3.7.

It is also clearly to be inferred from the Respondent's use of the disputed domain name that he registered the disputed domain name in the knowledge of the Complainant's BODOG mark, and with the intention of taking unfair advantage of the reputation and goodwill attaching to the Complainant's said trademark in the online betting and gambling industry. The Panel finds the BODOG mark is notorious within the field of sports betting and online casino services, due to its continuous use and promotion on the market for approximately 30 years (since 1994). Particularly, in the UK and in Brazil, as the evidence on the record shows the Complainant has sponsored and has been a betting partner of various UK Premier League soccer teams and has sponsored the Brazilian soccer championship "Copa do Brasil"; and the Panel notes the Respondent is located in one of these jurisdictions, in the UK, according to the Registrar verification.

The Panel, under its general powers, has further corroborated that, according to the Complainant's allegations, the Respondent's website contains various hyperlinks that redirect the users to competing betting and gambling online platforms from third parties. The Panel finds such use of the reputed BODOG mark for differing traffic to competing websites constitutes bad faith under the Policy.

Therefore, the Panel, having reviewed the record, finds the disputed domain name has been registered and is being used in bad faith, and 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 <bodog-br.com> be transferred to the Complainant.

/Reyes Campello Estebaranz/

Reyes Campello Estebaranz

Sole Panelist

Date: October 15, 2024