

ADMINISTRATIVE PANEL DECISION

Tamaris (Gibraltar) Limited v. [Details Not Provided by Registrant]
Case No. D2024-4274

1. The Parties

The Complainant is Tamaris (Gibraltar) Limited, Gibraltar, United Kingdom, represented by Wiley Rein LLP, United States of America.

The Respondent is [Details Not Provided by Registrant], Romania.

2. The Domain Name and Registrar

The disputed domain name <pragmaticplay.stream> (the “Disputed Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 17, 2024. On October 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On October 17, 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 (albeit providing no registrant or organization name in the registration of the Disputed Domain Name) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 21, 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 October 25, 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 October 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 17, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 18, 2024.

The Center appointed Nicholas Weston as the sole panelist in this matter on November 22, 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 company registered in Gibraltar, United Kingdom, which operates a business providing mobile and desktop casino games for the online gaming industry. The Complainant holds registrations for the trademark PRAGMATIC PLAY, and variations of it, in several countries, including European Union trademark registration No. 017891041 for the mark PRAGMATIC PLAY registered on September 1, 2018.

The Complainant is also the owner of, inter alia, the domain names <pragmaticplay.net> and <pragmaticplay.com> which have resolved to the company's legitimate website since 2015.

The Disputed Domain Name <pragmaticplay.stream> was registered on August 2, 2024. The Complainant has supplied uncontested evidence that the Disputed Domain Name resolves to a website streaming feeds created by the Complainant and soliciting login credentials.

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 cites a number of trademark registrations for the mark PRAGMATIC PLAY, in several countries, as prima facie evidence of ownership.

The Complainant submits that it has produced evidence its rights in the mark PRAGMATIC PLAY predates the Respondent's registration of the Disputed Domain Name. The Complainant submits that the Disputed Domain Name is identical to its trademark, for the reason that the Disputed Domain Name incorporates in its entirety the PRAGMATIC PLAY trademark, and that the confusing similarity is not removed by the generic Top-Level Domain ("gTLD") ".stream".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, "there is no evidence that Respondent has ever: (i) engaged in any legitimate use or demonstrable preparations to use, the [Disputed D]omain [N]ame pragmaticplay.stream or corresponding name, in connection with a bona fide offering of goods or services; (ii) been commonly known by the name "pragmaticplay" or "pragmaticplay.stream"; or (iii) made a legitimate noncommercial or fair use of the [Disputed D]omain [N]ame, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue", and none of the circumstances set out in paragraph 4(c) of the Policy apply. The Complainant also contends that the Disputed Domain [N]ame was used to "pirate Complainant's content and potentially pass itself off as a legitimate website operated by Complainant and leak Complainant's employees' personal details on its website" and that such use should not be considered as a bona fide offering of goods or services.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Name was, and currently is, in bad faith, contrary to the Policy and the Rules having regard to the prior use and "well-known" nature of the Complainants' trademarks, and, it submits, the use by the Respondent of the Disputed Domain Name to engage in phishing and pirating of the Complainant's content, and concealing of its identity, as evidence of bad faith.

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 has the burden of proving the following:

- (i) that the Disputed Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) that the Disputed Domain Name has been registered and is 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 Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds 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 Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark PRAGMATIC PLAY in numerous countries.

Turning to whether the Disputed Domain Names are identical or confusingly similar to the PRAGMATIC PLAY trademark, the Panel observes that the Disputed Domain Name is comprised of: (a) an exact reproduction of the Complainant's trademark PRAGMATIC PLAY; (b) followed by the gTLD ".stream".

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1. The relevant comparison to be made is with the second-level portion of each of the Disputed Domain Name, specifically: "pragmaticplay".

The Panel finds the entirety of the mark is reproduced within the Disputed Domain Name. Accordingly, the Disputed Domain Name is identical 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 Disputed 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 Disputed 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 that the combined term “pragmaticplay” is closely connected with the Complainant. Furthermore, there is no indication that the Respondent was commonly known by the terms “pragmaticplay” prior to registration of the Disputed Domain Name and the Complainant also contends that it has not licensed, permitted, or authorized the Respondent to use the trademark PRAGMATIC PLAY. The Panel also notes that the composition of the Disputed Domain Name carries a risk of implied affiliation (see [WIPO Overview 3.0](#), section 2.5.1).

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 notes the evidence that the Disputed Domain Name is being used to stream content from the Complainant’s website and to solicit Internet user’s login credentials, supports the Complainant’s submission that this does not represent a bona fide offering of goods or services, or a legitimate noncommercial or fair use, given the substantial reputation and goodwill of the Complainant’s mark or capacity to otherwise mislead Internet users.

Panels have held that the use of a Disputed Domain Name for illegitimate activity, here, impersonation of the Complainant, soliciting login credentials for the purpose of phishing, impersonation and 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Name in bad faith.

On the issue of registration, given the composition of the Disputed Domain Name, and the distinctive nature of the Complainant’s trademark, the Panel is satisfied that the Respondent targeted the Complainant’s when it registered the Disputed Domain Name.

Further, given the chosen Top-Level Domain “.stream”, and the use of the Disputed Domain Name to stream the Complainant’s content, the Panel is prepared to infer that the Respondent knew, or should have known, that its registration would be identical or confusingly similar to the Complainant’s trademark (see [WIPO Overview 3.0](#), section 3.2.2). In this case the Complainant’s mark was plainly targeted by the Respondent.

Also, on the issue of use, Panels have also held that the use of a domain name for illegitimate activity, here, impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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 <pragmaticplay.stream> be transferred to the Complainant.¹

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: December 3, 2024

¹In this regard, the Panel notes the Respondent did not provide a registrant or organization name when registering the Disputed Domain Name, nevertheless the concerned Registrar is directed to transfer the Disputed Domain Name to the Complainant irrespective of the named Respondent in this proceeding.