

ADMINISTRATIVE PANEL DECISION

Flutter Entertainment plc and Rational Intellectual Holdings Limited v. Rick Sorentos, GoldDay Corporation
Case No. D2022-0296

1. The Parties

The Complainants are Flutter Entertainment plc, Ireland, and Rational Intellectual Holdings Limited, Isle of Man, represented by Demys Limited, United Kingdom.

The Respondent is Rick Sorentos, GoldDay Corporation, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <pokerstarssport.com> is registered with PSI-USA, Inc. dba Domain Robot (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 28, 2022. On January 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 31, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the 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 February 7, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 28, 2022.

The Center appointed Knud Wallberg as the sole panelist in this matter on March 7, 2022. 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 Complainants are two entities within a group of related companies. The first Complainant – Flutter Entertainment plc – is a company incorporated in Dublin, Ireland. It is a multinational and market-leading parent company, operating some of the world's most innovative, diverse and distinctive sports betting and gaming brands including PokerStars, Paddy Power, Fox Bet, Sky Betting and Betfair.

The second Complainant – Rational Intellectual Holdings Limited – is the intellectual property holding company incorporated in Onchan, Isle of Man. It, *inter alia*, holds POKERSTARS registered rights which the first Complainant relies on. These registrations include United States trademark registration No. 3381727 of the mark POKERSTARS, filed on January 5, 2005, and registered on February 12, 2008 for goods and services in international classes 9 and 41.

The Complainants operate several official country-specific PokerStars websites to which Internet users are redirected when visiting the Complainants' website "www.pokerstars.com".

The disputed domain name was registered on January 14, 2014 and resolves to a website that displays pay-per-click ("PPC") advertising and a link to a third party website, where you can request information on the availability for sale of the disputed domain name.

5. Parties' Contentions

A. Complainants

The Complainants submit that the disputed domain name is confusingly similar to a mark in which they have rights. The fact that the disputed domain name also contains the dictionary word "sport", which is closely related to the Complainants' activities, does nothing to distinguish the disputed domain name from the Complainants' mark

The Complainants further submit that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not a licensee of the Complainants and has not received any permission or consent from either Complainant, collectively or singly, to use their marks and there is no evidence that the Respondent has been commonly known as POKERSTARS or POKERSTARS SPORT prior to or after the registration of the disputed domain name. That the Respondent has no rights or legitimate interests in the disputed domain name is underlined by the fact that the disputed domain name is used for website that displays PPC links and on which the disputed domain name is offered for sale website.

The Complainants finally submits that the disputed domain name is registered and used in bad faith. The Complainants' assert that the Complainants' POKERSTARS mark is well-known so it is inconceivable that the Respondent did not have the Complainants firmly in mind when it acquired the disputed domain name. The Complainants furthermore note that the fact that the disputed domain name is offered for sale and the fact that it is used for a website that displays PPC advertising association makes it clear that the disputed domain name is not only registered but is also used in bad faith. This is further supported by the fact that the disputed domain name is configured with Mail eXchanger (MX) and Sender Policy Framework (SPF) records and is therefore capable of email communication, in which case anyone receiving an email originating from the disputed domain name would reasonably assume that it was sent from the Complainants.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Preliminary Matter: Consolidation

Before addressing the three elements of the Policy, the Panel must first address a procedural issue, namely whether to accept in the present procedure that the Complaint is filed in the name of both Complainants.

Paragraph 10(e) of the UDRP Rules grants a panel the power to consolidate multiple domain name disputes. As it is stated in the second paragraph of section 4.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"): "In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation."

The Complainants have argued that they have a specific common grievance against the Respondent, in that the Respondent has targeted both the Complainants' rights. The disputed domain name thus takes unfair advantage of the first Complainant's brand and is confusingly similar to the second Complainant's registered rights. The Complainants also contend that the Respondent will not be prejudiced by the complaint being brought jointly by both Complainants.

Based on the above, the Panel finds that the Complainants have established a *prima facie* case that the Complaint can be consolidated. The Respondent has not rebutted this consolidation.

Consequently, the Panel finds that it is appropriate to consider the Complaint filed by both Complainants.

6.2. Substantive Matters of the Complaint

According to paragraph 15(a) of the Rules the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Paragraph 4(a) of the Policy directs that a complainant must prove each of the following:

- (i) that the disputed domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and
- (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.

Paragraph 4(a) of the Policy states that the burden of proving that all these elements are present lies with the Complainants. At the same time, in accordance with paragraph 14(b) of the Rules, if a party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, the Rules, or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar (in the sense of the Policy) to the Complainants' registered trademark POKERSTARS because it contains the mark in its entirety. The addition of the descriptive term "sport" does not prevent a finding of confusing similarity under the first element. See Section 1.8 of the [WIPO Overview 3.0](#). In addition, the generic Top-Level Domain ("gTLD") ".com" is a standard registration requirement and as such is disregarded under the first element confusing similarity test. See Section 1.11.1 of the [WIPO Overview 3.0](#).

The Panel finds that the conditions in paragraph 4(a)(i) of the Policy are therefore fulfilled in relation to the disputed domain name.

B. Rights or Legitimate Interests

According to the Complaint, the Complainants have not licensed or otherwise permitted the Respondent to use its trademark.

Further, given the circumstances of this case, the Panel is of the opinion that the Complainants have established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has not rebutted this, and the way the Respondent has been and is using the disputed domain name (see immediately below in the section C) does not support a finding of rights or legitimate interests.

Consequently, the Panel finds that the conditions in paragraph 4(a)(ii) of the Policy are also fulfilled.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires the Complainants to prove both registration and use of the disputed domain name in bad faith. Paragraph 4(b) of the Policy provides examples of circumstances which shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the holder has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the holder's documented out-of-pocket costs directly related to the domain name; or
- (ii) the holder has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the holder has engaged in a pattern of such conduct; or
- (iii) the holder has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the holder has intentionally attempted to attract, for commercial gain, Internet users to the holder's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the holder's website or location or of a product or service on the holder's website or location.

Accordingly, for the Complainants to succeed, the Panel must be satisfied that the disputed domain name has been registered and is being used in bad faith.

Given the circumstances of the case, in particular the extent of use and reputation of the Complainants' trademark POKERSTARS, it is inconceivable to the Panel in the current circumstances that the Respondent registered the disputed domain name without prior knowledge of the Complainants and the Complainants' marks. Further, the Panel finds that the Respondent could not have been unaware of the fact that the disputed domain name he chose could attract Internet users in a manner that is likely to create confusion for such users.

The Panel therefore finds that the disputed domain name was registered in bad faith.

Also, the Respondent uses the disputed domain name actively for a PPC page that contains links to websites of third parties some of which appear to offer services that are in competition with those offered by the Complainants. It is thus obvious to the Panel that the Respondent uses the disputed domain name in

bad faith by intentionally attempting to attract, for commercial gain, Internet users to his website by creating a likelihood of confusion with the Complainants' mark as to the source, sponsorship, affiliation, or endorsement of its website. The fact that the disputed domain name is offered for sale is a further indication that the disputed domain name was registered and is used in bad faith.

Noting that the disputed domain name incorporates a well-known trademark, that no response has been filed, that there appears to be no conceivable good faith use that could be made by the Respondent of the disputed domain name and considering all the facts and evidence, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy are also fulfilled in this case.

The Complainants have requested that the disputed domain name be transferred to the second Complainant.

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 <pokerstarssport.com> be transferred to the second Complainant, Rational Intellectual Holdings Limited.

/Knud Wallberg/

Knud Wallberg

Sole Panelist

Date: April 29, 2022