Decision for dispute CAC-UDRP-100806

Case number	**CAC-UDRP-100806**
Time of filing	**2014-05-27 11:56:45**
Domain names	**df888.com**

Case administrator

Name	**Lada Válková (Case admin)**

Complainant

Organization	**Emphasis Services Limited**

Respondent

Name	**Dandan Xie**

OTHER LEGAL PROCEEDINGS

No other legal proceedings concerning the disputed domain name are currently pending.

IDENTIFICATION OF RIGHTS

Complainant owns Hong Kong Trademark Registration No. 302048148 for DAFA, filed on October 3, 2011, and Malaysian Trademark Registration No. 2011019075 for DAFA, filed on October 28, 2011, among others.

Furthermore, Complainant maintains an extensive Internet presence with the domain name and mark DAFA888.COM.

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

The Complainant asserts that, through its subsidiaries, it operates websites offering online gaming and betting services with licenses issued in the Philippines and Isle of Man. The Complainant owns and operates several gaming sites under the brand “DAFA” and it has used the name “DAFA” in varying combinations to designate its online gaming and betting offerings for 12 years.

Moreover, the Complainant alleges that the disputed domain name “DF888.COM” is confusingly similar to the “DAFA” mark owned by the Complainant. According to the Complainant the Respondent has appropriated the trademark “DAFA” by abbreviating it and illegally used Complainant's IP to lead consumers to believe that it is affiliated with the Complainant.

Furthermore, the Complainant states that it is the owner of intellectual property rights pertaining to “DAFA” due to its registration in various jurisdiction and its usage and notoriety. The Complainant denies any direct connection with the Respondent and claims that the Respondent’s use of the Complainant’s intellectual property in its domain name and website are unauthorized and illegal.

The Complainant asserts that the Respondent will not be able to show prior usage, registration or any right to use the mark

“DAFA” or "DF" for its website and that the Respondent’s illegal usage of the Complainant’s logos, images and content on its website serves only to blatant copy and clone the Complainant’s website in bad faith.

Moreover, the Complainant states that the Respondent’s illegal use of the Complainant’s intellectual property on its website is indicative of its intentions in using "DF" in its domain name. The Respondent is making it appear that its websites are affiliated with the Complainant by not only using the “DAFA” mark in its domain, but also making the website appear almost exactly the same as that of the Complainant.

The Complainant asserts that it is evident from screenshots of the Respondent’s websites that the Respondent is not only using the marks of the Complainant in its domain name, but it has virtually cloned the website by illegally using the Complainant’s graphics, images, designs, content and logos. According to the Complainant this is a blatant attempt to deceive the public and so the Respondent has intentionally attempted to attract internet users for commercial gain.

Additionally, the Complainant alleges that the Respondent is well aware of the fact that the Complainant is the owner of the mark “DAFA” because of

(i) Registrations in various jurisdictions;

(ii) Goodwill and notoriety of the trademarks;

(iii) the Respondent’s illegal usage of Complainant’s logos, content, images and designs on its website;

The Complainant mentions that the “DAFA” and “DAFABET” are not only registered marks in various jurisdictions, it is likewise well known marks due to sponsorship with the English Premier League and the World Snooker Championship. Moreover, any claim of the Respondent to lack of knowledge over the Complainant’s ownership over the name “DAFA” is negated by the fact that it has used the Complainant’s marks on its website.

Finally the Complainant states that the Respondent has been sent a cease and desist letter, but no reply was received and the Respondent has persisted in illegal activities.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the Domain Name is identical or confusingly similar to a trademark or service mark in which the complainant has rights (within the meaning of paragraph 4(a)(i)of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the Domain Name (within the meaning of paragraph 4(a)(ii)of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the Domain Name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii)of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The registered trademarks whose existence Complainant has evidenced are DAFA and DAFABET. The Panel does not, in principle, consider these marks identical or confusingly similar to the disputed domain name, DF888.COM. However, Complainant has shown that it maintains a relevant Internet presence through the trademark and domain name DAFA888.COM, which clearly is, in contrast, confusingly similar to the domain name registered by the Respondent. The Complainant has for several years used name “DAFA” in varying combinations to designate its online gaming and betting services. The domain name DAFA888.COM was registered on 29 July 2003, i.e. several years ago, and it is beyond all doubt associated to the Complainant.

Furthermore, the Respondent’s website copies that of the Complainant closely, even displaying the domain name DAFA888.COM which fully incorporates trademark “DAFA” in an evident attempt to take advantage of the reputation and dissemination thereof.

Overall, the Complainant has shown to the satisfaction of the Panel that the name DAFA888.COM has become a distinctive identifier associated with the Complainant and its services and that the disputed domain name is confusingly similar to that name.

The Respondent has not submitted any reply. Therefore, it has submitted no information on possible rights or legitimate interests it might hold. On its part, the Complainant has submitted information and arguments which allow it to be reasonably assumed that the Respondent has no rights or legitimate interest in the domain name in dispute.

As the WIPO Arbitration and Mediation Center pointed out in UDRP case No. D2002-0856:

“As mentioned above in section 3, the Respondent has not filed a Response and is therefore in default. In those circumstances when the Respondent has no obvious connection with the disputed Domain Names, the prima facie showing by the Complainant that the Respondent has no right or legitimate interest is sufficient to shift the burden of proof to the Respondent to demonstrate that such a right or legitimate interest exists. WIPO Case No. D2002-0273 <sachsen-anhalt>; WIPO Case No. D2002-0521 <volvovehicles.com>”

The Respondent’s use of the Disputed Domain Name to intentionally attract Internet users for commercial gain is further evidence of bad faith registration and use of the domain name under paragraph 4(b)(iv) of the Policy. Indeed the Respondent’s domain name creates a likelihood of confusion between the domain name and the Complainant’s famous DAFA888.COM webpage. Furthermore, the Panel finds that the Respondent’s use of the Disputed Domain Name to attract Internet users to its website and from there to the websites of the Complainant’s business competitors and other third-party websites disrupts the Complainant’s business and is therefore evidence of bad faith registration and use of the domain pursuant to paragraph 4(b)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **DF888.COM**: Transferred

PANELLISTS

Name	**Mr. Luis H. de Larramendi**

DATE OF PANEL DECISION 2014-07-04

Publish the Decision