



WIPO Arbitration and Mediation Center

ADMINISTRATIVE PANEL DECISION

Fall Nummer: D2003-0745

Entscheidung vom 17. Dezember 2003

1. The Parties

The Complainant is Eurobet UK Limited, ...

The Respondent is G.. S. Co, Las Vegas, ...

2. The Domain Name and Registrar

The domain name at issue, <www.eurobet.com> (the "Domain Name"), was at the time the Complaint was filed registered with GKG.NET, INC (formerly GK Group LLC). The Domain Name was then temporarily registered with Melbourne IT Limited, D/B/A Internet Names Worldwide but is now again registered with GKG.NET, INC (formerly GK Group LLC).

3. Procedural History

The WIPO Arbitration and Mediation Center (the "Center") received the Complaint on September 22, 2003, (electronic version) and on September 25, 2003, (hard copy). On September 23, 2003, the Center transmitted by email to GKG.NET, INC (formerly GK Group LLC) a request for registrar verification in connection with the Domain Name. On September 24, 2003, GKG.NET, INC (formerly GK Group LLC) transmitted by email to the Center its verification response and confirmed that it was the Registrar for the Domain Name and the Respondent is listed as the registrant of the Domain Name. Further, the Registrar provided contact details for the administrative, billing, and technical contact and confirmed that the Uniform Domain Name Dispute Resolution Policy (the "Policy") applied to the Domain Name. The Center verified that the Complaint satisfied the formal requirements of the Policy, 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 paragraphs 2(a) and 4(a) of the Rules, the Center formally notified the Respondent of the Complaint, and the administrative proceedings commenced on September 26, 2003. In accordance with paragraph 5(a) of the Rules, the due date for Response was October 16, 2003.

The proceeding was suspended at the Complainant's request on October 8, 2003, due to the fact that the Complainant had received an e-mail from the Respondent offering to transfer the Domain Name.

The proceeding was reinstated, again at the Complainant's request, on November 17, 2003, due to the fact that a letter requesting that the Domain Name be transferred, signed by the Respondent, was not sufficient in order to execute the transfer. In accordance with paragraph 5 of the Rules, the due date for Response was November 25, 2003.

The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 26, 2003.

The Center appointed Markus S. Hellgren as the sole panelist in this matter on December 4, 2003. 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 paragraph 7 of the Rules. The Panel was required to forward its decision to the Center by December 18, 2003, in accordance with paragraph 15 of the Rules.

The language of the proceeding is English.

4. Factual Background

The Complainant is one of the biggest on-line bookmakers in the world and is ultimately owned by Coral Eurobet Holdings Limited. The Eurobet business was established in 1995. Eurobet has websites located at, inter alia, "www.eurobet.com", "www.eurobet.co.uk" (both first registered in 1995), "www.eurobetcasino.com" and "www.eurobetgames.com" and has in excess of 200,000 customers in over 100 countries. The .com website is translated into 17 languages, in addition to being available in English. For the financial year ended September 29, 2002, the turnover for the Coral Eurobet group was in excess of £2 billion, of which the Eurobet Internet betting business contributed £336 million.

The Complainant and Eurobet (Gibraltar) Limited (formally called Coral Internet (Gibraltar) Limited), are wholly owned indirect subsidiaries of Coral Eurobet Holdings Limited. Eurobet (Gibraltar) Limited is the company which owns the "EUROBET" trademarks on behalf of the Coral Eurobet group of companies and it has licensed the use of the "EUROBET" trademarks to the Complainant. Eurobet (Gibraltar) Limited (formally called Coral Internet (Gibraltar) Limited) owns the following trademark registrations:

UK Trademark Registration No. 2048351 EUROBET BOOKMAKERS & Device, filing date December 12, 1995, in International Class 41.

Community Trademark Registration No. 272237 EUROBET BOOKMAKERS & Device, filing date June 7, 1996, in International Class 41.

Community Trademark Registration No. 1936376 EUROBET & Device, filing date November 2, 2000, in International Class 41.

Australian Trademark Registration No. 856512 EUROBET & Device, filing date November 8, 2000, in International Class 41.

Singaporean Trademark Registration No. T00/19760G EUROBET & Device, filing date November 11, 2000, in International Class 41.

Chinese Trademark Registration No. 1794338 EUROBET & Device, filing date June 21, 2002, in International Class 41.

All of these trademarks are used to indicate the provision of gaming, gambling and betting services (class 41). Eurobet is also the owner of a number of domain names containing the trademark "EUROBET".

The Domain Name resolves to a website called M... which is a direct competitor of the Complainant, offering sports betting and gaming products.

The Domain M... is registered to K..

When the registration of the Domain Name first came to the attention of the Complainant, the Whois information for the Domain Name was given as G.S. The e-mail address shown is the same e-mail address as given in the Whois information for K..

The Complainant wrote to the Respondent on May 6, 2003, but the letter was returned. The Complainant then re-sent the letter by e-mail on May 27, 2003, but no response was received from the Respondent.

The Complainant contacted the registrar, GKG Net, Inc (the "Registrar") and asked them to consider cancellation of the Domain Name pursuant to clause 6 (c) of the registration agreement that the Respondent had entered into. This clause provides that:

"willfully providing inaccurate information or willfully failing to update information promptly will constitute a material breach of this Agreement and will be sufficient basis for cancellation of

your domain name registration".

Following a slight delay due to a misunderstanding between the Complainant and the Registrar, the Registrar then contacted the Respondent regarding the Whois information. On August 14, 2003, the Registrar's representative informed the Complainant that the Domain Name had been placed on lock and hold due to invalid contact information and that the Respondent had been told that they would have to update the information and give a written guarantee that the Domain Name was not being used wrongfully before they would be able to use the Domain Name again.

However, on September 1, 2003, the Complainant became aware that the Domain Name had been reinstated and that the Whois information had been changed. The new Whois address was exactly the same as that for ., thus further proving a connection between G.S. and K..

The Complainant decided on September 1, 2003, to write to the Respondent again, at the new address, but no response was received to the letter. The Complainant also attempted to telephone the Respondent but the telephone number given proved to be false. This false information was again pointed out to the Registrar, who again wrote to the Respondent asking them to provide proof of their contact information. In response to this, the Respondent again changed the Whois database information, to that currently provided.

The Complainant has shown that it has received an e-mail of October 1, 2003, from the Respondent offering to transfer the Domain Name. Further, the Complainant has also shown that the Respondent has signed a letter requesting that the Domain Name be transferred to the Complainant. However, the signed letter, which was not on letter headed paper and did not contain the Respondent's address, was not sufficient in order to execute the transfer of the Domain Name to the Complainant.

5. Parties' Contentions

A. The Complainant's case

Identical or Confusingly similar

The Complainant contends that the Domain Name is confusingly similar to the trademarks in which the Complainant has rights.

Further, the Complainant contends that the Domain Name is virtually identical to the Complainant's trademark "EUROBET" except that a "www" has been added to the front.

The Complainant refers to *Reuters Limited v. Global Net 2000, Inc*, WIPO Case No. D2000-0441 and state that in this case it was noted that the letters "'www'...have no distinguishing capacity in the context of domain names" and, in addition, "have the effect of focusing particular attention on the word succeeding them". In this respect the Complainant also refers to *Ticketmaster Corporation v. Woofersmith*, WIPO Case No. D2003-0346.

The Complainant contends that the addition of "www" in front of the domain <eurobet.com> makes the Domain Name confusingly similar to the Complainant's trademarks and domain names.

Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Domain Name for the following reasons:

- i) The Complainant has not licensed the Respondent to use any of its trademarks and has given no indication that it allows the Respondent to use the same or to act as its agent; and
- ii) The Respondent does not have any trademarks in the name "Eurobet" and is not recognisable by that name. Furthermore, the website "www.eurobet.com" resolves not to a site named or trademarked "EUROBET" but to a competitor gambling site unconnected with the trademark "EUROBET".

Registration and Use in Bad Faith

The Complainant contends that the Domain Name has been registered and is being used in bad faith for the following reasons:

- i) Eurobet is one of the world's largest Internet bookmakers and has been in existence since 1995, at which time the domain names <eurobet.com> and <eurobet.co.uk> were registered. The Respondent did not register the Domain Name until April 2000. The Complainant believes that the Respondent was fully aware of Eurobet's existence when the Domain Name was purchased. The Respondent is clearly associated with Knot International Gaming Inc. which owns the website M..., a betting and gaming site, in direct competition with

Eurobet. This can be seen from the common Whois information used from time to time by the two organisations. Not only was the address for the two organisations the same at one point, but also the two have used the same e-mail address. Furthermore, the e-mail address clearly reflects the Respondent's involvement in the gaming industry. As such, it would be aware of its competitors in this market, including Eurobet.

ii) The Respondent has a history of typosquatting by registering the names of well-known and reputable betting and gaming organisations with "www" in front, and then using the website in question to divert web users to gaming and sports betting sites associated with the Respondent and its affiliates. The following are examples that the Complainant has found where the Respondent has, in bad faith, registered a domain name containing another organisation's name with "www" in front and no period between, and then diverted customers who go to that site to a website registered by Knot International Gaming Inc.: *Harrah's Las Vegas, Inc v. Grand Slam Co.*, NAF FA0205000114339, *Hilton Group plc v. Grand Slam Co.* WIPO Case No. D2003-0136 and *Yobet.com, Inc v. Grand Slam Company*, WIPO Case No. D2002-0711.

In each of the above cases it was held that Grand Slam Co was cybersquatting and a transfer of the domain name(s) to the complainant was ordered.

It will be noted that the address given for Grand Slam Co. in respect of each of these domain names was Chopsticks Town, Thailand, the first address the Respondent gave in the Whois information for the registration of the Domain Name. This address is blatantly invented and is clear evidence of the Respondent's bad faith, as is the repeated failure to give true and correct information.

iii) The Complainant also draws the Panel's attention to *Hilton Group & Others v. Universal Internet Technologies, Inc.*, WIPO Case No. D2001-0812, in which the panelist commented that "It is difficult to conceive of a more blatant attempt to attract Internet users to the..... website [than] through the registration and use of domain names simply as pointers to the latter website". Notwithstanding the pattern that the Respondent has established of registering domain names in bad faith, the registration and use of the Domain Name solely to point at a competitor's website and divert traffic that was seeking the Complainant's site, clearly shows that the Domain Name was registered and is being used in bad faith.

iv) Given the circumstances and the Respondent's previous history, it is obvious that the sole purpose of the registration of the Domain Name was, and still is, to misleadingly divert potential customers of Eurobet to the website of one of its competitors, M..., for the commercial gain of the Respondent and its associate, Knot International Gaming Inc., by creating a likelihood of confusion with Eurobet as to source, sponsorship, affiliation or endorsement of the site (which is evidence of bad faith registration under clause 4b(iv) of the Policy).

Web users going to the "www.wwweurobet.com" site will expect to end up at a site connected with Eurobet, a highly reputable international bookmaker and may even think that the site M... is affiliated with, or sponsored by, Eurobet. The Respondent's continued use of the Domain Name therefore misleads consumers and tarnishes the good name and trademarks of the Complainant. In addition, the Respondent is also deliberately trying to disrupt the business of the Complainant by diverting the Complainant's customers to the site of the Respondent's associate (which is further evidence of bad faith under clause 4b(iii) of the Policy).

In conclusion, the Complainant contends that the Respondent has infringed the Complainant's trademark by registering "wwweurobet.com", is creating confusion with the Complainant's mark in the minds of web users, has no legitimate reason to use this domain name and that the Domain Name was registered and is continuing to be used in bad faith for the reasons given above.

The Complainant requests that the Panel direct that the Domain Name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

The situation in which a Respondent has agreed to transfer the disputed domain name during proceedings has been raised in a number of previous cases. See e.g. *Deutsche Bank AG v. Carl Seigler*, WIPO Case No. D2000-0984, *Juventus F.C. S. p. A v. Sergio Braganca*, WIPO Case No. D2000-1466 and *Microsoft Corporation v. StepWeb*, WIPO Case No. D2000-1500.

In these cases, the Panels found that a situation similar to the situation in the present case was sufficient in order to transfer the domain name to the Complainant. In the present case, the Complainant has received an

e-mail from the Respondent offering to transfer the Domain Name. However, the Center has not received a response from the Respondent agreeing to transfer the Domain Name and the Panel therefore deems that it should proceed to make substantive findings.

The Panel is satisfied that the Center took all steps reasonably necessary to notify the Respondent of the filing of the Complaint and commencement of this administrative proceeding, and that the Respondent's failure to submit a Response is not due to any omission by the Center.

In view of the Respondent's failure to submit a Response, the Panel shall decide the dispute based upon the Complaint according to paragraphs 5(e), 14(a) and 15(a) of the Rules and draw such inferences it considers appropriate according to paragraph 14(b) of the Rules.

According to paragraph 4(a) of the Policy, the Complainant must assert and prove each of the following:

- i) that Respondent's domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii) that Respondent has no rights or legitimate interests in respect of the domain name; and
- iii) that the domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant and Eurobet (Gibraltar) Limited, are wholly owned indirect subsidiaries of Coral Eurobet Holdings Limited. Eurobet (Gibraltar) Limited is the company which owns the "Eurobet" trademarks on behalf of the Coral Eurobet group of companies and it has licensed the use of the "Eurobet" trademarks to the Complainant.

The Panel deems that the circumstances shown by the Complainant is sufficient in order to find that the Complainant has rights in the trademark EUROBET even though it is not the owner of the trademark registrations in question.

The Complainant has rights in the trademark EUROBET. The Domain Name consists of the mark EUROBET, the addition of "www" in front of the mark and the gTLD ".com". The gTLD ".com" and the addition of "www" in front of the mark have no significance when determining whether or not the Domain Name is confusingly similar to the trademark. Accordingly, the Panel finds that the Domain Name is confusingly similar to the trademark EUROBET in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant contends that it has not given license or any other authorization to the Respondent to use its trademarks. Further, the Complainant contends that the Respondent does not have any trademarks in the name "EUROBET" and is not recognizable by that name.

The Respondent has shown that the Domain Name resolves to a website called M... which is a competitor of the Complainant. Such use does not amount to a right to or legitimate interest in the Domain Name. The Panel finds that the Complainant has thereby made a *prima facie* showing that Respondent has no rights to or legitimate interests in the Domain Name.

A number of WIPO cases have established that, by virtue of paragraph 4(c) of the Policy, once a Complainant establishes a *prima facie* case that Respondent has no rights or legitimate interests in respect of the domain name, the burden of production on this factor shifts to the Respondent. See e.g. *Document Technologies, Inc. v. International Electronic Communications Inc.*, WIPO Case No. D2000-0270 and *Six Continents Hotels, Inc. v. Seweryn Nowak*, WIPO Case No. D2003-0022.

The Respondent has failed to meet that burden and the Panel therefore finds that the Respondent has no rights to or legitimate interests in the Domain Name.

C. Registered and Used in Bad Faith

As stated above, the Respondent has shown that the Domain Name resolves to a website called M... which is a competitor of the Complainant. This is a clear indication that the Respondent was aware of the trademark EUROBET when registering the Domain Name. In addition, the many arbitral decisions rendered against the Respondent show that its behavior is part of an overall pattern of registering third party trademarks with "www" in front as domain names. The Respondent's practice of profiting from third party trademarks is a clear indication of its bad faith registration and use of the Domain Name.

The Complainant has shown that there is a connection between the Respondent and Knot International

Gaming Inc. which is a competitor of the Complainant and the owner of the domain name M.... This fact and the fact that the Domain Name resolves to the website M... show that the Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor which is evidence of bad faith according to paragraph 4(b)(iii) of the Policy.

Further, the Respondent is using the Domain Name intentionally to attract, for commercial gain, Internet users to the website located at M... by creating a likelihood of confusion with the Complainant's trademark. This is evidence that the domain name at issue was registered and is being used in bad faith according to paragraph 4(b)(iv) of the Policy.

Finally, the fact that the Respondent has previously provided invalid contact information further strengthens the Panel's findings.

Accordingly, the Panel finds that the Domain Name was registered and is being used in bad faith.

7. Decision

For all the foregoing reasons, in accordance with Paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the domain name, <wwweurobet.com>, be transferred to the Complainant.

(Sole Panelist)