

ADMINISTRATIVE PANEL DECISION

Rootz LTD v. Katerina Zvonkova

Case No. D2022-4276

1. The Parties

Complainant is Rootz LTD, Malta, represented by Wilmark Oy, Finland.

Respondent is Katerina Zvonkova, Belarus.

2. The Domain Name and Registrar

The Domain Name <caxino-game.com> is registered with Marcaria.com International, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 10, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 17, 2022, the Registrar transmitted by email to the Center its verification response confirming that 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 Respondent of the Complaint, and the proceedings commenced on November 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 8, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 9, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on December 15, 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

Complainant is an igaming company based in Malta, operating online casinos offering various online games of chance. Complainant won the award for Malta's Best Online Operator of the Year in 2020 at Malta's Gaming Excellence Awards (MiGEA). CAXINO (www.caxino.com) is a successful international online casino, that includes top online gaming titles (<https://www.caxino.com/en/news/2020-review/>).

Complainant owns registered trademarks for CAXINO including:

- the European Union trademark registration no. 018017682 CAXINO (word), filed on January 31, 2019, and registered on October 7, 2020, for services in international class 41; and
- the International trademark registration no. 1552795 CAXINO (word), registered on February 19, 2020, for services in international class 41.

The Domain Name was registered on September 29, 2022, and leads to a website (the "Website") of purportedly an online casino, which includes references to Complainant and even a partial screenshot of Complainant's real Caxino Casino website at "www.caxino.com". The Website has numerous pictures of online slotgames and other links. If such a picture or other link is pressed the user is redirected to a registration page of one of Complainant's competitors.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which Complainant must satisfy with respect to the Domain Name:

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

A. Identical or Confusingly Similar

The Domain Name incorporates Complainant's CAXINO trademark in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjacks and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The addition of the word "game" and the hyphen does not prevent a finding of confusing similarity, as the CAXINO trademark remains clearly recognizable within the Domain Name (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8).

The generic Top-Level Domain (“gTLD”) “.com” is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#)).

The Panel finds that the Domain Name is confusingly similar to Complainant’s CAXINO trademark.

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

(i) before any notice to Respondent of the dispute, Respondent’s use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or

(ii) Respondent (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or

(iii) Respondent is making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per Complainant, Respondent was not authorized to register the Domain Name.

Respondent has not demonstrated any preparations to use, or has not used the Domain Name or a trademark corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Name was used to host the Website which provides similar services to those of Complainant, namely online casino, and contains text from Complainant’s main website, whereas clicking on certain links redirects the user to a Complainant’s competitor. Moreover, the Domain Name carries a risk of implied affiliation to Complainant due to its incorporation of the CAXINO trademark in its entirety, along with the descriptive addition of the element “game” that conveys to Internet users the impression that the Website will be a source of Complainant’s services, contrary to the fact ([WIPO Overview 3.0](#), section 2.5.1).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in bad faith:

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

(ii) Respondent 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 Respondent has engaged in a pattern of such conduct; or

(iii) Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith.

Because the CAXINO mark had been used and registered by Complainant before the Domain Name registration, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Respondent should have known about Complainant's rights, as such knowledge is readily obtainable through a simple browser search, also in view of Complainant's nature of business (online casino) (see *Caesars World, Inc. v. Forum LLC*, WIPO Case No. [D2005-0517](#); *Compart AG v. Compart.com / Vertical Axis Inc.*, WIPO Case No. [D2009-0462](#)).

As regards bad faith use, Complainant demonstrated that the Domain Name was employed to host the Website which provided services similar to Complainant's, copied parts of its main website and redirected to a Complainant's competitor.

Under these circumstances and on this record, the Panel finds that Respondent registered and used the Domain Name in bad faith.

Complainant has established Policy, paragraph 4(a)(iii).

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 Domain Name, <caxino-game.com> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: December 29, 2022