

ADMINISTRATIVE PANEL DECISION

Rootz LTD v. Cira Reid
Case No. DIO2023-0043

1. The Parties

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

The Respondent is Cira Reid, Guatemala.

2. The Domain Name and Registrar

The disputed domain name <wildzcasino.io> (the “Domain Name”) is registered with Nicenic International Group Co., Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 7, 2023. On November 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 16, 2023, 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 .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 November 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 13, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on December 18, 2023. 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 Maltese gaming company which since at least 2020 has offered its online gaming services under the trademark WILDZ (the "WILDZ Mark"). The Complainant offers its services from its website at "www.wildz.com" ("Complainant's Website") and has won awards for its Malta-based online casino services.

The Complainant has held a trademark registration for the WILDZ Mark in various jurisdictions since 2018, notably having held a European Union trademark registration for the WILDZ Mark since April 25, 2018, for a variety of goods and services relating to gaming and online gaming in particular (Registration No. 017589813).

The Domain Name was registered on July 8, 2023. The Domain Name resolves to a website (the "Respondent's Website") that prominently reproduces the WILDZ Mark, purports to offer online gaming services in direct competition with the Complainant and directly asserts that it is the Complainant, including by making reference to the Complainant's gaming license and the Complainant's support e-mail address.

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 Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the WILDZ Mark, having registered the WILDZ Mark in various jurisdictions. The Domain Name is confusingly similar to the WILDZ Mark as it reproduces the WILDZ Mark in its entirety and adds the term "casino".
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the WILDZ Mark. The Respondent is not commonly known by the WILDZ Mark, nor does it use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Rather the Respondent is using the Domain Name to pass off as the Complainant for commercial gain by purporting to offer online gaming services in direct competition with the Complainant. Such use is not a legitimate use of the Domain Name.
- c) The Domain Name was registered and is being used in bad faith. The Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent's Website to disrupt the Complainant's business and divert Internet users searching for the Complainant to a competing website for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

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

6. Discussion and Findings

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 domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.¹

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 Panel finds the entirety of the WILDZ Mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical or confusingly similar to the WILDZ Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here "casino", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the WILDZ Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, 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.

While the overall burden of proof in this proceeding is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible 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 domain name. 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.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the 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 Domain Name.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.

- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.

¹The Panel, noting the similarities between the Policy and Uniform Domain Name Dispute Resolution Policy ("UDRP"), has cited authorities decided under the UDRP where appropriate. This includes the [WIPO Overview 3.0](#).

- the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.

- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent's use of the Domain Name to resolve to a webpage reproducing the Complainant's WILDZ Mark and purporting to offer online gaming services in direct competition with the Complainant (while falsely asserting that it is the Complainant) does not amount to use for a *bona fide* offering of goods and services. Rather, it appears that the purpose behind the Respondent's Website is to encourage visitors, under the impression that they are dealing with the Complainant, to use the Respondent's online gaming services, such conduct not being *bona fide*.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered or 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.

The Panel considers that the record of this case reflects that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 Respondent's website or location or of a product or service on the Respondent's website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the Respondent must have been aware of the Complainant and its reputation in the WILDZ Mark at the time the Respondent registered the Domain Name. The Respondent has provided no explanation, and neither it is immediately obvious, why an entity would register a domain name incorporating the WILDZ Mark (with the addition of the term "casino") and direct it to a website purportedly offering online gaming services unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its WILDZ Mark. Moreover, the Respondent's Website makes several clear assertions that it is an official website of the Complainant, indicating a clear awareness of the Complainant at the time of registration.

The Respondent's Website purports to offer online gaming services in direct competition with the Complainant. Noting the coined nature of the WILDZ Mark and the absence of any explanation by the Respondent for the registration of the Domain Name, the Panel considers that the most likely explanation is that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the WILDZ Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website.

The Panel, while noting that the Policy only requires that a complainant show that a respondent registered or subsequently used the domain name at issue in bad faith, finds that the Respondent has registered and used the Domain Name in bad faith under paragraph 4(a)(iii) of the Policy. Based on the available record, the Panel finds the third element of the Policy has been established.

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, <wildzcasino.io> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: January 1, 2024