

ADMINISTRATIVE PANEL DECISION

Rootz LTD v. 26 Technology LTD

Case No. D2024-4614

1. The Parties

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

The Respondent is 26 Technology LTD, Cyprus, self-represented.

2. The Domain Name and Registrar

The disputed domain name <spinzcasino.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 9, 2024. On November 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 11, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Registration Private) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 12, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. Between November 12 and 14, 2024, the Respondent sent four informal emails to the Center. The Complainant filed an amendment to the Complaint on November 18, 2024.

The Center verified that the Complaint together with the amendment to 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 November 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 9, 2024. The Response was filed with the Center on December 6, 2024.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on December 18, 2024. 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.

On December 20, 2024, the Center issued Procedural Order No. 1 pursuant to paragraph 10 and 12 of the Rules seeking clarification of various factual matters alleged by the Respondent and providing the Complainant with an opportunity to respond to any supplemental filing by the Respondent in response to the Panel Order.

On December 27, 2024, the Respondent submitted a supplemental filing in response to Panel Order No. 1.

In response to a request for a copy of Panel Order No. 1 as formally issued which the Panel mistakenly sent to the Respondent on December 30, 2024, the Respondent sent directly to the Panel a copy of the decision in *Merryvale Limited v. Domains By Proxy, LLC., DomainsByProxy.com / Oliver Worth, Twenty Two Solutions Ltd*, WIPO Case No. [D2020-2187](#). As the Respondent's communication was not copied to the Complainant, on January 3, 2025, the Panel issued Panel Order No. 2 drawing attention to the Respondent's provision of the decision in the *Merryvale Limited* case, above, and extending the time for the Complainant's response to the Respondent's supplemental filing to January 8, 2025.

The Complainant did not submit a supplemental filing in response to Panel Order No. 1 or Panel Order No. 2.

4. Factual Background

The *Merryvale Limited* case, above, involved the disputed domain name. However, the parties, or at least the complainant, were different and the Complainant in this case relies on different rights to those relied on by the complainant in the earlier case.

The Complainant in the present case is an online gaming business based in Malta. It offers a number of online casinos which are licensed and regulated by the Malta Gaming Authority. The Complainant has been awarded the Best Online Operator of the Year in Malta's Gaming Excellence Awards (MiGEA) in both 2020 and 2022.

One of the Complainant's online casinos is operated under the brand name SPINZ which the Complainant appears to operate from a website "www.spinz.com". This online casino was awarded Best Online Casino Product of the Year and Best Online Gaming Product of the Year at the MiGEA awards in 2022. According to a press release on the Complainant's website at "www.spinz.com" included in Annex 2 to the Response entitled "Spinz Casino Takes Off", the Complainant's SPINZ casino launched on March 25, 2022. The press release promotes as one of the Complainant's site's notable features live streaming.

The Complainant's website features prominently a figurative version of the Complainant's trademark with a stylized representation of the letter "S".

The Complaint includes evidence that the Complainant owns registered trademarks for or including SPINZ and the figurative version of SPINZ. For present purposes, it is sufficient to mention:

- (1) European Union Registered Trademark No. 018401262, SPINZ, which was registered on June 12, 2021 with effect from February 18, 2021 in respect of a wide range of gambling betting and entertainment services in International Class 41; and
- (2) International Registration No. 1620806, SPINZ, which was registered on August 9, 2021 in respect of those class 41 services and designating Switzerland, the United Kingdom, India, Japan, Norway and New Zealand.

The Panel also notes that the Complainant has registered trademarks for the figurative version of the mark appearing on the Complainant's website. For example, European Union Registered Trademark No. 018404365, which was registered on June 12, 2021 with effect from February 22, 2021 in respect of the class 41 services already mentioned.

The disputed domain name was registered on January 9, 2019. According to the Respondent's supplemental filing, it was transferred from Twenty Two Solutions Ltd to the Respondent on December 30, 2021.

According to the Respondent's supplemental filing, the Respondent is incorporated in Cyprus.

According to the Complaint, in Canada and New Zealand the disputed domain name redirects to an online casino on the website at "www.infinty-casino.com" but is blocked in other countries. The Panel has not been able to access the Respondent's website from his location (outside Canada and New Zealand).

Annex 3 to the Response includes a screenshot of a promotion of SPINZ CASINO on YouTube which as at March 30, 2020 had attracted over 10,000 views.

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each of the following:

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

Paragraph 15(a) of the Rules directs the Panel to decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.

In the Response, the Respondent claimed to be a United Kingdom company and to have been operating the SPINZ CASINO website continuously since 2019. As is apparent, however, the Respondent has a different name to the named respondent in the earlier *Merryvale Limited* case. On the other hand, the Response did include evidence that a SPINZ CASINO had been operating since at least March 2020. In addition, the Panel in the *Merryvale Ltd* case, above, recorded that:

"Respondent states that it is a UK based company that provides, in conjunction with its regulated third-party partners, mobile casino games primarily via mobile applications, but also online. This includes the "SpinZ Casino" website, which is primarily directed to persons in the UK and has operated from the Domain Name since shortly after the Domain Name was registered on January 9, 2019."

In light of this evidence, the Panel considered it appropriate to issue Panel Order No. 1 seeking clarification of the basis on which the Respondent claimed to have been using the disputed domain name since 2019 and, as a search of the United Kingdom Companies House did not disclose the registration of the Respondent, the claim that the Respondent is a company registered in the United Kingdom. These matters have been addressed in the Respondent's supplemental filing.

Although the Respondent initially objected to the admissibility of the Complaint on the grounds it was a refiled Complaint in one of its informal emails, it does not appear to have maintained that objection after notification of the Complaint. In any event, as the Complainant in this case is different to the complainant in

the *Merryvale Limited* case and relies on different trademark rights to the rights relied on in the earlier case, the Panel considers that this is not a refiled Complaint. In the circumstances, the considerations discussed in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.18 are not applicable.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

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 disputed domain name. WIPO Overview of [WIPO Overview 3.0](#), section 1.7.

Amongst other things, the Complainant has proven ownership of registered trademarks for SPINZ.

The comparison of the disputed domain name to the Complainant's trademark simply requires a visual and aural comparison of the disputed domain name to the proven trademarks. This test is narrower than and thus different to the question of “likelihood of confusion” under trademark law. Therefore, questions such as the scope of the trademark rights, the geographical location of the respective parties, the date they were acquired and other considerations that may be relevant to an assessment of infringement under trademark law are not relevant at this stage. Such matters, if relevant, may fall for consideration under the other elements of the Policy. See e.g., [WIPO Overview 3.0](#), section 1.7.

In undertaking that comparison, it is permissible in the present circumstances to disregard the generic Top Level Domain (gTLD) component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

Disregarding the “.com” gTLD, the disputed domain name consists of the Complainant's registered trademark and the term “casino”. As this requirement under the Policy is essentially a standing requirement, the addition of this term does not preclude a finding of confusing similarity. See e.g., [WIPO Overview 3.0](#), section 1.8. Apart from anything else, the Complainant's trademark remains visually and aurally recognisable within the disputed domain name.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is confusingly similar to the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Rights or Legitimate Interests

The second requirement the Complainant must prove is that the Respondent has no rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy provides that the following circumstances can be situations in which the Respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to [the Respondent] of the dispute, [the Respondent's] use of, or demonstrable preparations to use, the [disputed] domain name or a name corresponding to the [disputed] domain name in connection with a bona fide offering of goods or services; or
- (ii) [the Respondent] (as an individual, business, or other organization) has been commonly known by the [disputed] domain name, even if [the Respondent] has acquired no trademark or service mark rights; or

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

These are illustrative only and are not an exhaustive listing of the situations in which a respondent can show rights or legitimate interests in a domain name.

While the overall burden of proof in UDRP proceedings 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.

It is not in dispute between the parties that the Respondent is not the Complainant nor authorised by the Complainant to use the Complainant’s trademark or associated with the Complainant in some other way.

The Complainant further contends that the redirection of the disputed domain name to the “Infinity Casino” website in Canada and New Zealand breaches the Complainant’s trademark rights and is an attempt to generate profits by misleadingly diverting the Complainant’s customers in those countries to the Respondent’s website.

The Respondent in effect contends, however, it is using the disputed domain name in connection with a good faith offering of services and its casino business has been commonly known as SPINZ CASINO since 2019.

Further, the Respondent points out that the disputed domain name was formally transferred into the Respondent’s name on December 30, 2021 which was before the Complainant’s website became active. That does appear to be the case. However, the Panel notes that the date of the transfer to the Respondent occurred several months after the Complainant filed and registered its trademarks. Therefore, it is possible that the Respondent had notice of the Complainant’s claimed rights when the disputed domain name was transferred to the Respondent even though the Complainant’s website had not launched.

According to the Respondent, it is in fact incorporated in Cyprus not the United Kingdom. The Respondent says that it and Twenty Two Solutions Ltd are related companies with the same ownership and management. In addition, the Respondent says the disputed domain name was transferred into its name as part of an internal restructuring of intellectual property rights within the group.

According to the Respondent, the casino made available from the disputed domain name is operated under a “White Label” arrangement with, initially, Grace Media Limited and, more recently, Grace Media (Gibraltar) Limited. Information from the United Kingdom Gambling Commission’s website at “www.gamblingcommission.gov.uk” confirms that Grace Media formerly held such a licence and Grace Media (Gibraltar) currently holds a remote gambling software licence. That form of licence appears to allow Grace Media (Gibraltar) to provide facilities for remote gambling by customers of other operators under the other operators’ brand names (e.g., those of the Respondent or its related company).¹

The Panel has confirmed that there is a company with the Respondent’s name registered in Cyprus.² At least one of its directors, a Mr Swerdlow, is also a director of Twenty Two Solutions Ltd (which is incorporated in the United Kingdom).

¹ <https://www.gamblingcommission.gov.uk/licensees-and-businesses/licences-and-fees/remote-gambling-software-licence>.

² <https://www.companies.gov.cy/en/21-eservices/esearch-in-business-entity-s-registry>.

There is also evidence in the YouTube screenshot that SPINZ CASINO was operating as early as March 2020.

On the limited materials before the Panel, therefore, it appears that the disputed domain name has been continuously in use for an online casino since at least March 2020 and, given the *Merryvale Limited* case, above, 2019.

In these circumstances, the Panel finds that the Respondent has sufficiently demonstrated that the circumstances in either or both of paragraphs 4(c)(i) and (ii) are satisfied.

It is not clear on the record in this case whether the Respondent, or its associates, need licences to provide gambling services in Canada and New Zealand. (The Respondent has not disputed the redirection of the disputed domain name in those countries. Nor has it claimed any such licences.) On the evidence before the Panel, however, the Respondent is licensed to provide its gambling services in the United Kingdom. Accordingly, the legitimacy or otherwise of the redirection of the disputed domain name to an online casino in Canada and New Zealand falls to be determined as a matter of trademark infringement rather than under the Policy.

Accordingly, the Panel finds that the Complainant has not established that the Respondent does not have rights or a legitimate interest in the disputed domain name.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain names have been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint. See e.g., *Group One Holdings Pte Ltd v. Steven Hafto* WIPO Case No. [D2017-0183](#).

The reasons for concluding that the Respondent has demonstrated rights or a legitimate interest in the disputed domain name would also lead to a finding that the disputed domain name was not registered in bad faith. See e.g., *The Proprietors of Strata Plan No. 36, A Turks and Caicos Corporation v. Gift2Gift Corp.* WIPO Case No. [D2010-2180](#).

D. Reverse Domain Name Hijacking

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

It is not clear on the information before the Panel whether the Complainant was aware of the online casino claimed to be operating under a licence from the United Kingdom authorities. The failure by the Complainant to disclose that knowledge (if it does in fact have it) would be a very serious failure. In the present case, however, the registrant of the disputed domain name was cloaked through a privacy protection service and, in any event, is a different entity to the named Respondent in the *Merryvale Limited* case, above. It is also not clear on the record in this case if the redirection of the disputed domain name to “Infinity Casino” in Canada and New Zealand is a new or different development since the previous decision.

Given the prior decision in the *Merryvale Limited* case above, there are obvious concerns about the bringing of this proceeding. The Complainant does rely on different rights to those relied on in the earlier proceeding. Most importantly, however, the different identity of the Respondent from the named respondent in the earlier proceeding (cloaked behind privacy protection) leads the Panel not to make a finding of Reverse Domain Name Hijacking.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: January 15, 2025