

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v.
Perfect Privacy, LLC / BONO BONO
Case No. D2022-1810

1. The Parties

The Complainant is Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco, Monaco, represented by De Gaulle Fleurance & Associés, France.

The Respondent is Perfect Privacy, LLC, United States of America / BONO BONO, Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <monaco808.com> is registered with Register.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 19, 2022. On May 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 21, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on May 23, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on May 27, 2022.

The Center verified that the Complaint together with the amended 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 May 30, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 19, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 20, 2022.

The Center appointed Marilena Comanescu as the sole panelist in this matter on June 22, 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

The Complainant is a public company founded on April 6, 1863 in Monte Carlo, its main shareholder being the House of Grimaldi, the Principality of Monaco and its ruling family. The Complainant holds monopoly by way of Sovereign Order for the provision of casino gaming services in the Principality of Monaco.

The Complainant employs almost 3,000 people and has been operating for 150 years the Casino de Monte-Carlo, known interchangeably as the Casino de Monaco, the most famous casino in the world. The Complainant also owns another three casinos and a complete resort including two palaces and two deluxe hotels, 40 conference and banqueting rooms, 34 restaurants and bars, three spas, as well as several cultural and leisure venues in Monte Carlo.

The Complainant holds trademark registrations in Monaco such as the following (the "MONACO Trademarks"):

- the word mark CASINO DE MONACO No. 02.23234, filed on September 30, 2002, covering goods and services in International Classes 3, 9, 12, 14, 16, 18, 28, 34, 35, 38, 39, 41;
- the word mark CASINO DE MONTE-CARLO No. 96.17407, filed on August 13, 1996 and registered on October 30, 1996, covering goods in International Classes 3, 7, 9, 12, 14, 16; and
- the word mark MONACOPOKER No. 09.27380, filed on May 26, 2009 registered on July 15, 2009, covering services in International Class 41.

The disputed domain name <monaco808.com> was registered on October 3, 2021 and, at the time of filing the Complaint it was used in connection with a gambling website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its well-known MONACO Trademarks as it contains the dominant element of such marks together with the descriptive term "808", the Respondent has no rights or legitimate interests in the disputed domain name, and the Respondent registered and is using the disputed domain name in bad faith. The Complainant requests the transfer of the disputed domain name to it.

B. Respondent

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

6. Discussion and Findings

In view of the absence of a Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

A. Identical or Confusingly Similar

The Panel finds that the Complainant holds rights in the MONACO Trademarks.

The disputed domain name reproduces the dominant part of the MONACO Trademarks, such as the element “Monaco” included in the CASINO DE MONACO and MONACOPOKER marks, together with the numeric string “808”.

In accordance with section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), 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. Panels view the first element as a threshold test concerning a trademark owner’s standing to file a complaint, *i.e.*, to ascertain whether there is a sufficient nexus to assess the principles captured in the second and third elements.

This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

Also, numerous UDRP panels have considered that the addition of other terms (whether geographical wording, descriptive, pejorative, meaningless or otherwise) to trademarks in a domain name does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

Further, it is well established in decisions under the UDRP that the generic Top-Level Domain (“gTLD”) (*e.g.*, “.com”, “.site”, “.info”, “.shop”) is typically disregarded for the purposes of consideration of confusing similarity between a trademark and a domain name. See section 1.11 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the disputed domain name is confusingly similar to the MONACO Trademarks, pursuant to the Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Complainant asserts that the Respondent does not hold any trademark rights, license, or authorization whatsoever to use the MONACO Trademarks, that the Respondent is not commonly known by the disputed domain name and that the Respondent has not used the disputed domain name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Under the Policy, “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”. See section 2.1 of the [WIPO Overview 3.0](#).

Paragraph 4(c) of the Policy gives non-exclusive examples of instances in which the respondent may establish rights or legitimate interests in the domain name, by demonstrating any of the following:

- (i) before any notice to it of the dispute, the 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) that the respondent has been commonly known by the domain name, even if it has acquired no

trademark or service mark rights; or

(iii) the 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.

Fundamentally, a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant's mark is often central to this inquiry.

Generally speaking, UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. Furthermore, even where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. See section 2.5.1 of the [WIPO Overview 3.0](#).

Although properly notified with regard to the present procedure, the Respondent failed to submit a substantive Response and to provide any arguments which could demonstrate its rights or legitimate interests in the disputed domain name.

The disputed domain name incorporates the Complainant's trademark known for decades in its industry, with a descriptive term and it is used to promote identical services to those promoted by the Complainant.

For these reasons, the Panel believes that the Respondent adopted the Complainant's trademark more likely for the purpose of creating an impression of an association with the Complainant or otherwise for taking unfair advantage of the goodwill of the Complainant's trademark.

For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, pursuant to the Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

The Complainant carries its activities since 1863, holds trademark rights for MONACO Trademarks for decades, and CASINO DE MONACO has become well-known worldwide due to its extensive worldwide promotion and featuring including in iconic novels and movies.

The disputed domain name was registered in 2021 and incorporates the dominant part of the Complainant's mark together with the numeric string "808", numbers closely related to the gambling industry.

From the above, the Panel finds that the Respondent was aware of the Complainant, its business and trademark at the registration of the disputed domain name.

At the time of filing the Complaint, the disputed domain name resolved to a webpage providing services competing to those offered by the Complainant and, also, featuring the MONACO Trademark.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other on-line 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" is evidence of registration and use in bad faith.

The Respondent was using without permission the Complainant's trademark in order to get traffic on its web portal and thus to obtain commercial gain from the false impression created with regard to a potential affiliation or connection with the Complainant. Such impression is created in particular by the composition of the disputed domain name, the content of the website under the disputed domain name which displays the MONACO Trademarks, promotes services identical to those of the Complainant and the absence of any disclaimer or information regarding the relationship, in fact the lack of it, between the Parties.

Furthermore, it was consistently found by previous UDRP panels that the mere registration of a domain name that is identical or confusingly similar to a third party's well-known trademark constitutes, by itself, a presumption of bad faith registration for the purpose of Policy. See section 3.1.4 of the [WIPO Overview 3.0](#).

The Respondent registered the disputed domain name under a privacy service and refused to participate in the present proceedings in order to provide arguments in its favor. Having in view the other circumstances of this case, such facts constitute further evidence of bad faith.

For all the above reasons, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith, pursuant to the 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 disputed domain name <monaco808.com> be transferred to the Complainant.

/Marilena Comănescu/

Marilena Comănescu

Sole Panelist

Date: July 1, 2022