

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v.
Privacy Service Provided by Withheld for Privacy ehf / Anggriyani Anggriyani
Case No. D2022-1925

1. The Parties

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

Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Anggriyani Anggriyani, Indonesia.

2. The Domain Names and Registrars

The disputed domain names <monaco18.bond>, <monaco18.club>, <monaco18.life>, <monaco18.live>, and <monaco18.site> are registered with Dynadot, LLC.

The disputed domain names <monaco18.com>, <monaco18.one>, <monaco18.shop>, and <monaco18.xyz> are registered with NameCheap, Inc.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 27, 2022. On May 28, 2022, the Center transmitted by email to the Registrars request for registrar verification in connection with the disputed domain names. On May 28, 2022 and May 29, 2022, respectively, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to Complainant on June 3, 2022 providing the registrant and contact information disclosed by the Registrars, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 7, 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 Respondent of the Complaint, and the proceedings commenced on June 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 28, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on June 29, 2022.

The Center appointed Brian J. Winterfeldt as the sole panelist in this matter on July 7, 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 a limited liability company organized under the laws of Monaco founded in 1863 by a Sovereign Decree passed by the Prince of Monaco. Complainant was granted a monopoly right by the Prince of Monaco's Sovereign Order and is accordingly the sole corporation with the permission of the state to operate casinos in the Principality of Monaco since 1863. The gaming monopoly right, or *Privilège des Jeux*, was most recently renewed by the *Ordonnance Souveraine* No. 15.732 of March 13, 2003. Complainant operates the Casino de Monte-Carlo, which has appeared in a number of films, books, and other media, and three other casinos in Monaco, namely, the Monte-Carlo Bay Casino, the Casino Café de Paris, and the Sun Casino.

Complainant owns valid and subsisting registrations for several MONACO-formative trademarks (the "MONACO Marks"), covering numerous goods and services, including games in Class 28 and entertainment and cultural activities in Class 41. Complainant's MONACO-formative trademark registrations include Monaco Registration No. 09.27380 for MONACOPOKER, Monaco Registration No. 09.27273 for MONACOBET, Monaco Registration No. 09.27370 for MONACOSPORTBET, Monaco Registration No. 09.27372 for MONACOCOWIN, and Monaco Registration No. 09.27371 for MONACOGAMING, all filed May 26, 2009 and registered July 15, 2009, as well as Monaco Registration No. 02.23234 for CASINO DE MONACO, filed July 1, 2002 and registered September 17, 2002, and Monaco Registration No. 96.17407 for CASINO DE MONTE-CARLO, filed August 13, 1996 and registered October 30, 1996.

The majority of the disputed domain names were registered on December 9, 2021, but <monaco18.site> was registered on December 12, 2021, and <monaco18.life> and <monaco18.live> were registered on May 10, 2022. The majority of the disputed domain names resolve to Indonesian-language casino gaming websites with almost identical content, offering casino games such as poker and slots games and making prominent use of casino gaming-related imagery, such as playing cards and gambling wheels. Respondent's websites make prominent use of a "Monaco18" title and logo, which includes images of the ace of spades. The disputed domain name <monaco18.bond> resolves to an error page. The disputed domain names <monaco18.site>, <monaco18.com>, and <monaco18.shop> resolve to registrar parking pages with pay-per-click ("PPC") advertisements.

5. Parties' Contentions

A. Complainant

Complainant alleges the disputed domain names are confusingly similar to Complainant's MONACO Marks given the disputed domain names merely add the number "18", which Complainant argues is a lucky number in many cultures, including in Chinese tradition and applications of numerology in Judaism, and selected by Respondent on purpose given that many casino gaming players are superstitious. Complainant also alleges the resolution of the disputed domain names <monaco18.xyz>, <monaco18.club>, <monaco18.one>, <monaco18.life>, and <monaco18.live> to the same gambling website indicate Respondent intentionally registered the disputed domain names for their suggestiveness in relation to casino gaming.

Complainant asserts that Respondent has no rights or legitimate interests in the disputed domain names. According to Complainant, Complainant never authorized Respondent to register and use the disputed domain names, and Respondent's use of the disputed domain names in bad faith demonstrates Respondent's lack of legitimate interest in and *bona fide* use of the disputed domain names. Complainant also indicates Respondent claimed to be the official owner of "Monaco18" trademarks in the Terms and Condition section of the casino gaming website to which several of the disputed domain names resolve. Complainant investigated this claim through a third-party trademark search vendor and found no matching trademark applications or registrations in any searchable jurisdiction, demonstrating Respondent lacked any intellectual property rights in any mark containing the term "Monaco" or "18".

Complainant asserts that Respondent registered and used the disputed domain names in bad faith. Complainant alleges Complainant's trademarks have a strong reputation in the field of gambling that render it impossible for Respondent to have been unaware that the registration and use of the disputed domain names would violate Complainant's rights. Complainant argues Respondent intentionally attempted to attract, for commercial gain, Internet users to Respondent's casino gaming website by offering an online gambling website benefiting from Complainant's reputation and using a "Monaco18" logo featuring the ace of spades. Respondent gains commercially from Respondent's casino gaming website by offering third parties commission money through inviting others to play on the website and from the casino games offered on Respondent's website. Complainant argues that though <monaco18.bond>, <monaco18.site>, <monaco18.com>, and <monaco18.shop> are inactive, it can be expected they will soon display the same casino gaming website as the other disputed domain names, and their confusing similarity to Complainant's trademarks are clear examples of bad faith registration and use.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraphs 5(f) and 14(a) of the Rules, if a respondent defaults, and exceptional circumstances do not apply, the panel shall proceed to a decision on the basis of the complaint.

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

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

A respondent's default does not by itself satisfy a complainant's burden of proof and is not necessarily an admission that the complainant's allegations are true. See the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3. Thus, even though Respondent has defaulted, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence. See, *e.g.*, *Vente-Privee.Com v. Tang Tang Shang, Tang Shan*, WIPO Case No. [D2021-1350](#).

A. Identical or Confusingly Similar

A national or international trademark registration is *prima facie* evidence that the holder has the requisite rights in the registered mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence that it has rights in the MONACO Marks through its trademark registrations referenced *supra*.

The remaining question under the first element of the Policy is whether the disputed domain names are identical or confusingly similar to Complainant's MONACO Marks (typically disregarding the Top-Level Domain ("TLD") in which the disputed domain names were registered). It is well accepted that the first element functions primarily as a standing requirement and that the threshold test for confusing similarity involves a "reasoned but relatively straightforward comparison between the complainant's trademark and the disputed domain name". [WIPO Overview 3.0](#), section 1.7. 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. *Id.*

Here, the disputed domain names fully incorporate the "Monaco" portion of Complainant's MONACO Marks. The addition of the term "18" after "Monaco", and the use of the TLDs ".bond", ".club", ".life", ".live", ".com", ".one", ".shop", and ".xyz" respectively, do not prevent a finding of confusing similarity between the disputed domain names and Complainant's MONACO Marks. See, e.g., [WIPO Overview 3.0](#), section 1.1; *Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. Tanwa Chairat*, WIPO Case No. [D2021-3797](#) (finding the number "88" added to "Monaco" in the disputed domain name did not prevent a finding of confusing similarity); *Gilead Sciences, Inc. v. Xing Wang*, WIPO Case No. [D2021-3342](#) (finding confusing similarity as to domain names with ".club," ".live," ".shop," and ".xyz" TLDs and noting that "[t]he various gTLDs may be disregarded for purposes of the first element, since they are standard technical requirements necessary for registration.").

The Panel therefore finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain names are confusingly similar to Complainant's MONACO Marks.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, Complainant must make at least a *prima facie* showing that Respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained their burden under the second element of the UDRP. See [WIPO Overview 3.0](#), section 2.1.

Complainant has alleged that Respondent has no rights or legitimate interests in the disputed domain names. Respondent has not submitted any arguments or evidence to rebut Complainant's contention that it has never authorized Respondent to register or use the disputed domain names. Respondent is also not using the disputed domain names in connection with any *bona fide* offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain names, because the nature of the disputed domain names, consisting of the "Monaco" portion of Complainant's MONACO Marks, and the number "18" carry a high risk of implied affiliation with Complainant, who holds a monopoly over casino gaming services in Monaco. See [WIPO Overview 3.0](#), section 2.5.1. Moreover, the majority of the disputed domain names resolve to casino gaming websites offering services competing with Complainant under a MONACO-formative mark and logo incorporating the ace of spades, which is connected to casino gaming and further suggests an affiliation with Complainant. The disputed domain name <monaco18.bond> is being passively held in that it resolves to an error page and does not evidence legitimate noncommercial or fair use within the meaning of paragraph 4(c)(iii) of the Policy. See, e.g., *Instagram, LLC v. Zafer Demir, Yok*, WIPO Case No. [D2019-1072](#) ("The passive holding of the disputed domain name does not amount to use or preparations to use it in connection with a *bona fide* offering of goods and services... Nor does a passive holding of the disputed domain name comprise a legitimate noncommercial or fair use of it."). The disputed domain names <monaco18.site>, <monaco18.com>, and <monaco18.shop> resolve to registrar parking pages with PPC ads, which here do not support Respondent's rights or legitimate interests or evidence a *bona fide* offering of goods or services. See [WIPO Overview 3.0](#), section 2.9. Furthermore, there is no evidence on record suggesting that Respondent is commonly known by the disputed domain names.

Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the disputed domain names. Respondent, having defaulted, failed to refute Complainant's allegations.

Therefore, the Panel concludes that Respondent does not have rights or legitimate interests in the disputed domain names within the meaning of paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out of pocket costs directly related to the domain name; or

(ii) you have 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 you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

Respondent's registration of nine MONACO-formative domain names, the majority of them used for casino gaming websites featuring a “Monaco18” logo featuring the ace of spades, which are associated with casino gaming, makes clear Respondent's knowledge of Complainant and its MONACO Marks, and Respondent's targeting thereof, particularly in light of Complainant's monopoly over casino gaming services in Monaco. The Panel finds Respondent has engaged in a bad faith pattern of abusive domain name registration (preventing Complainant from reflecting its MONACO Marks in corresponding domain names), within the meaning of paragraph 4(b)(ii) of the Policy. See [WIPO Overview 3.0](#), section 3.1.2. The Panel also finds Respondent registered and used the disputed domain names to divert Internet users seeking Complainant's services, thus acting in opposition to Complainant and disrupting Complainant's business within the meaning of paragraph 4(b)(iii) of the Policy. See [WIPO Overview 3.0](#), section 3.1.3. The Panel further finds Respondent's use of the disputed domain names indicates Respondent obtained the disputed domain names to intentionally attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with Complainant's MONACO Marks as to the source, sponsorship, affiliation, or endorsement of the websites or of casino gaming services on the website, within the meaning of paragraph 4(b)(iv) of the Policy. See [WIPO Overview 3.0](#), section 3.1.4.

Respondent is currently passively holding the disputed domain name <monaco18.bond>, which resolves to an error page. Previous panels have found that the non-use of a domain name, including use under which the domain name does not resolve to an active website, would not prevent a finding of bad faith. See [WIPO Overview 3.0](#), section 3.3. Some of the factors that UDRP panels have considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. *Id.* Here, the passive holding doctrine is applicable because of the well-known nature of Complainant's MONACO Marks in the casino gaming space, Respondent's failure to submit a response or in

any way rebut Complainant's allegations regarding bad faith registration and use, and the implausibility of any good faith use to which the disputed domain name can be put, in light of Respondent's use of most disputed domain names for casino gaming websites offering services competing with Complainant's services.

Respondent also uses the disputed domain names <monaco18.site>, <monaco18.com>, and <monaco18.shop> for registrar parked pages featuring PPC ads, which here constitute bad faith use. See, e.g., *Impala Platinum Holdings Limited v. Domain Admin, Domain Registries Foundation*, WIPO Case No. [D2020-2272](#) (finding bad faith registration and use pursuant to paragraph 4(b)(iv) of the Policy where "the Respondent does not appear to have made any substantive use of the disputed domain name since its registration... other than in connection with a parking page displaying PPC links. In light of the high degree of similarity between the disputed domain name, the Complainant's trademarks, and corporate name, it is likely that Internet users seeking the Complainant may arrive at the parking page to which the disputed domain name resolves.").

This Panel therefore finds that Respondent registered and used the disputed domain names in bad faith under paragraphs 4(b)(ii), 4(b)(iii), and 4(b)(iv) of the Policy, and Complainant succeeds under paragraph 4(a)(iii) of the Policy.

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 names <monaco18.bond>, <monaco18.club>, <monaco18.com>, <monaco18.life>, <monaco18.live>, <monaco18.one>, <monaco18.shop>, <monaco18.site>, and <monaco18.xyz> be transferred to Complainant.

/Brian J. Winterfeldt/

Brian J. Winterfeldt

Sole Panelist

Date: July 21, 2022