

## **ADMINISTRATIVE PANEL DECISION**

Yggdrasil Malta Limited v. Heng Ruay  
Case No. D2022-4073

### **1. The Parties**

The Complainant is Yggdrasil Malta Limited, Malta, represented by Aera A/S, Denmark.

The Respondent is Heng Ruay, Thailand.

### **2. The Domain Name and Registrar**

The disputed domain name <yggdrasilgaming.fun> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 28, 2022. On October 28, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 28, 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 (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 31, 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 November 4, 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 November 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 1, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 2, 2022.

The Center appointed Andrew Brown K.C. as the sole panelist in this matter on December 9, 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 company incorporated in Malta. It was founded in 2013 and has offices in Poland, Sweden, Gibraltar and Malta. The company is the provider of online gaming solutions for i-Gaming operators. Its products cover three product verticals namely Casino Slots, Table Games, and Bingo, as well as Yggdrasil White Label Studios, YGS Masters, and Yggdrasil Dragons. The Complainant has acquired gambling licenses in jurisdictions such as the United Kingdom, Malta, Gibraltar, and Romania. Its gaming software is offered by recognized casinos such as William Hill, Mr Green, Betsson, Leo Vegas, Unibet, and Ladbrokes. It has over 150 games on the market.

The Complainant is the proprietor of multiple trademarks for Marks comprising or including YGGDRASIL (“the YGGDRASIL Mark”). It has *inter alia*:

- (a) A U.S. registration for the Word Mark YGGDRASIL and YGGDRASIL logo in classes 9, 35, 41, and 42.
- (b) EU trademark registrations for the YGGDRASIL Word Mark and YGGDRASIL logo in classes including 9, 35, 41, and 42. EU trademark registrations for YGGDRASIL GAMING, YGGDRASIL SUPERIOR GAMING logo, YGGDRASIL CASINO in classes 9, 35, 41, and 42 and YGGDRASIL MEGAPOT in classes 9, 28, and 41.
- (c) A UK trademark registration for YGGDRASIL MEGAPOT in classes 9, 28, and 41.

The Complainant also claims that its YGGDRASIL Mark has acquired extensive goodwill and reputation as a result of its trading activities.

As to domain names, the Complainant owns multiple domain names incorporating its YGGDRASIL trademark including <yggdrasil.games> and <yggdrasil.game>.

The disputed domain name was registered on March 14, 2022.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant asserts its rights in the YGGDRASIL Mark. The Complainant contends that the disputed domain name is confusingly similar to its YGGDRASIL Mark and that the addition of the term “gaming” is not sufficient to overcome confusing similarity. Given the brand awareness of its YGGDRASIL Mark in the gaming industry, the Complainant asserts that an Internet user seeing the disputed domain name would most probably assume a connection with or endorsement from the Complainant and its business. It further asserts, on well-established case consensus, that the generic Top-Level Domain (“gTLD”) “.fun” must be excluded from consideration when determining confusing similarity.

The Complainant also states that the Respondent has no rights or legitimate interests in the disputed domain name based on the Complainant’s own long use of its YGGDRASIL Mark. It further states that the Respondent is not affiliated or related to the Complainant; the Respondent is not licensed or authorized by the Complainant to use the YGGDRASIL Mark; and the Respondent is not using the YGGDRASIL Mark in connection with any *bona fide* offering of goods or services. The Complainant further asserts that the Respondent is not generally known by the YGGDRASIL Mark nor has the Respondent acquired any trademark rights in that mark.

Finally, the Complainant also contends that the disputed domain name was registered and is being used in bad faith. In this regard, it asserts that the Respondent must have known of the Complainant’s YGGDRASIL Mark and its business. It states that the Respondent could not have chosen or subsequently used the combination of its mark plus the term gaming for any reason other than to trade off the Complainant’s

goodwill and reputation or otherwise create a false association. The Complainant claims that there has been opportunistic bad faith on the part of the Respondent.

In addition, the Complainant points to the fact that the disputed domain name is being used to host a website providing links to the Complainant's games. The unauthorized use of the YGGDRASIL Mark shows that the Respondent is intentionally diverting consumers for commercial gain. The Complainant asserts that this amounts to disruption of its business, impersonation of it by using its YGGDRASIL Mark and logo. Finally, as MX-records are set up for the disputed domain name, the Complainant says that there is a risk that the disputed domain name is used for illegal activity such as fraud and impersonation.

## **B. Respondent**

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

## **6. Discussion and Findings**

Pursuant to paragraph 4(a) of the Policy, a Complainant must prove each of the following elements with respect to the disputed domain name in order to succeed in this proceeding:

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

### **A. Identical or Confusingly Similar**

The Complainant has provided evidence of its registration of its YGGDRASIL Mark in multiple jurisdictions including the EU, the United Kingdom, the United States of America, and as an international registration. It has also provided evidence of extensive use of its YGGDRASIL Mark starting in 2013 as well as its success from 2015-2019 in winning a series of nine international gaming awards from leading authorities in the i-Gaming industry.

It is the Panel's view that the Complainant has clearly and sufficiently demonstrated its rights in the YGGDRASIL Mark. The Panel is satisfied that the Complainant is well-known internationally by its YGGDRASIL Mark in relation to a core group of products and services in the i-Gaming industry.

The Panel accepts that the disputed domain name is confusingly similar to the Complainant's YGGDRASIL Mark. The word "Yggdrasil" in the disputed domain name is clearly and unmistakably recognized in it.

As noted in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("the [WIPO Overview 3.0](#)"), section 1.8, "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless or otherwise) does not prevent a finding of confusing similarity under the first element". It is the Panel's view that the addition of the term "gaming" to the YGGDRASIL Mark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's YGGDRASIL Mark, which remains clearly recognizable in the disputed domain name. As discussed later in this decision under the second and third elements, the addition of the word "gaming" creates a likelihood of confusion.

The Panel finds that the disputed domain name is confusingly similar to the Complainant's YGGDRASIL Mark and finds in favor of the Complainant under paragraph 4(a)(i).

## **B. Rights or Legitimate Interests**

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish that it has rights or legitimate interests in the disputed domain name, among other circumstances, by showing any one of the following elements:

- (i) That before notice of the dispute, the Respondent used or made 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) That the Respondent has been commonly known by the disputed domain name, even if it had acquired no trademark or service mark rights; or
- (iii) That the Respondent is making a legitimate non-commercial 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.

The overall burden of proof for establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name lies with the Complainant.

There is no evidence of the existence of any rights or legitimate interests on the part of the Respondent in the YGGDRASIL Mark pursuant to paragraph 4(c) of the Policy. The Complainant unquestionably has prior rights in the YGGDRASIL Mark which well precede the Respondent's registration of the disputed domain name.

The Panel is satisfied that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The fact that the disputed domain name resolves to an active website that provides links to the Complainant's game products without any authorization from the Complainant demonstrates that the Respondent has no rights or legitimate interests in the disputed domain name.

As MX-records have been set up for the website located at the disputed domain name, there is a risk that the disputed domain name may be used for fraud or illegal activities.

Section 2.13.1 of the [WIPO Overview 3.0](#) states that the use of a domain name for illegal activity can never confer rights or legitimate interests on a respondent.

The Respondent has failed to show that it has acquired any rights or respect to the disputed domain name or that the disputed domain is used in connection with a *bona fide* offering of goods and services. The Respondent had the opportunity to demonstrate its rights or legitimate interests, but it did not reply to the Complainant's Complaint.

The Panel therefore finds that the Complainant has satisfied the burden of establishing a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name and accordingly finds that paragraph 4(a)(ii) of the Policy is satisfied in favor of the Complainant.

## **C. Registered and Used in Bad Faith**

The Panel is also satisfied that the disputed domain name has been registered in bad faith for the following reasons:

- (i) The Panel is satisfied that the Complainant's YGGDRASIL Mark is well-known for goods and services in the i-Gaming industry. The Panel is also satisfied that the Respondent was aware of the Complainant and its YGGDRASIL mark at the time of registration of the disputed domain name. This is evidenced by the addition of the word "gaming" to the Complainant's YGGDRASIL Mark coupled with the use of the disputed domain that resolves to a website in which the Respondent tries to impersonate the Complainant and

supposedly sell the Complainant's products. This website makes use of the Complainant's YGGDRASIL logo. These actions affirm the Respondent's intent of taking unfair advantage of the likelihood of confusion between the disputed domain name and the Complainant as to the origin or affiliation of the disputed domain name.

(ii) Paragraph 2 of the UDRP puts a burden on registrants where it states "by applying to register a domain name, or by asking us to maintain or renew a domain name registration, you hereby represent and bond to us that [...] to your knowledge, the registration of the domain name will not infringe upon or otherwise violate the rights of a third party [...]. It is your responsibility to determine whether your domain name infringes or violates someone else's rights". Even the most cursory trademark or other online search or any online search of existing domain names prior to the Respondent registering the disputed domain name would instantly have revealed the Complainant and its YGGDRASIL Mark. See in this regard section 3.2.3 of the [WIPO Overview 3.0](#).

(iii) The circumstance of the case and in particular the adoption of the Complainant's YGGDRASIL Mark and logo in circumstances where MX-records are set up for the website located at the disputed domain name indicates to the Panel that the Respondent registered the disputed domain name to create a likelihood of confusion with the Complainant's YGGDRASIL Mark for the purpose of some illegal or fraudulent activity.

(iv) The Respondent has made no substantive submission in this proceeding or sought to answer the Complainant's allegations. The Panel is entitled to draw adverse inferences from that failure.

The Panel is also satisfied that the disputed domain name has been used in bad faith for the following reasons:

(i) As already noted, the Complainant has provided evidence that the Respondent is using the disputed domain name and the combination of the YGGDRASIL Mark and the word "gaming" to attract users to the website hosted there. In addition, the Respondent is using the Complainant's distinctive YGGDRASIL logo as well as references to the Complainant's gaming products. The Panel is satisfied that the Respondent's use will cause confusion of deception amongst Internet users and promote the false belief that the disputed domain name belongs to the Complainant or that the Respondent's business is economically linked to the Complainant.

(ii) Again, the Respondent had the opportunity to respond to the Complaint but has not done so. The Panel is entitled to draw adverse inferences from that omission.

Accordingly, the Panel finds that paragraph 4(a)(iii) of the Policy is satisfied in favor of the Complainant.

## 7. Decision

For the foregoing reasons, in accordance with paragraph 4(a)(i)-(iii) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <yggdrasilgaming.fun>, be transferred to the Complainant.

*/Andrew Brown K.C./*

**Andrew Brown K.C.**

Sole Panelist

Date: December 21, 2022