

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v.
bhg dev, bhg
Case No. D2023-0645

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 bhg dev, bhg, Brazil

2. The Domain Name and Registrar

The disputed domain name <montecarlo777.online> (the “Domain Name”) 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 February 13, 2023. On February 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 14, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Registration Private, Domains by Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 2023, 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 February 20, 2023.

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 February 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 20, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 22, 2023.

The Center appointed Gregor Vos as the sole panelist in this matter on March 31, 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 was founded on April 6, 1863 and is located in the Principality of Monaco. The Complainant employs almost 3,000 people and exploits hotels, casinos, nightclubs, restaurants and bars in Monte Carlo, Monaco.

The Complainant is the owner of *inter alia* the following trademark registrations (the "Trademarks"):

- Monaco trademark registration No. 96.17407 CASINO DE MONTE-CARLO, registered on October 30, 1996;
- Monaco trademark registration No. 14.30170 MONTE CARLO registered on February 12, 2014.

The Domain Name was registered on May 24, 2022 and resolves to a website on which gambling related content is depicted.

5. Parties' Contentions

A. Complainant

With the Complaint, the Complainant seeks that the Domain Name is transferred to the Complainant. The Complaint is based on the following factual and legal grounds: the Domain Name is confusingly similar to the Trademarks of the Complainant, the Respondent has no rights or legitimate interests in the Domain Name, and the Domain Name has been registered and is being used in bad faith.

Firstly, according to the Complainant, the Domain Name is confusingly similar to its well-known Trademarks. The Domain Name associates the Trademarks with the numbers "777" that are commonly known as the lucky numbers in the field of gambling, the field in which the Complainant acquired a significant reputation.

Secondly, according to the Complainant, the Respondent has no rights or legitimate interests in the Domain Name. The Respondent does not own any registered rights to the elements "monte-carlo", "777", or a combination thereof. Also, the Complainant has never authorized the Respondent to register and use the Domain Name. Further, the Respondent cannot otherwise claim any legitimate interest or *bona fide* use of the Domain Name in light of its use and registration of the Domain Name in bad faith.

Finally, according to the Complainant, the Respondent has registered and is using the Domain Name in bad faith. In light of the well-known character of the Complainant's Trademarks, it is inconceivable that the Respondent registered the Domain Name without knowledge of the Complainant and its Trademarks. Also, according to the Complainant, the Domain Name is being used in bad faith. The Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by offering an online gambling website to unduly benefit from the Complainant's reputation by creating an association with the Complainant and its activities.

B. Respondent

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

6. Discussion and Findings

In view of the lack of a response filed by the Respondent as required under paragraph 5 of the Rules, this proceeding has proceeded by way of default. Hence, under paragraphs 5(f), 14(a) and 15(a) of the Rules, the Panel is directed to decide this administrative proceeding on the basis of the Complainant's undisputed factual presentations.

For the Complainant to succeed, it must prove, within the meaning of paragraph 4(a) of the Policy and on the balance of probabilities that:

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

Only if all three elements have been fulfilled, the Panel is able to grant the remedy requested by the Complainant. The Panel will deal with each of the requirements in turn.

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the Domain Name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

With respect to having rights pursuant to paragraph 4(a)(i) of the Policy, it is noted that the Complainant is registered as the owner of the Trademarks. Consequently, the Panel finds that the Complainant has proven that it has rights in the Trademarks.

With regard to the assessment of identity or confusing similarity of the Domain Name with the Trademarks, it is generally accepted that this test involves a reasoned but relatively straightforward comparison between the Complainant's Trademarks and the Domain Name (see section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). In cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark (see section 1.7 of the [WIPO Overview 3.0](#)).

In the present case, the Trademark MONTE CARLO is incorporated in its entirety in the Domain Name. The addition of the generic Top-Level Domain ".online" and the numbers "777" does not prevent a finding of confusing similarity with the Trademark MONTE CARLO (see sections 1.7 and 1.11.1 of the [WIPO Overview 3.0](#)).

Consequently, the Panel finds that the requirement under paragraph 4(a)(i) of the Policy has been 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 Domain Name. The onus of proving this requirement, like each element, falls on the Complainant. Given the difficulty in proving a negative, however, it is usually sufficient for a complainant to make out a *prima facie* case that a respondent lacks rights or legitimate interests. If a complainant does establish a *prima facie* case, the burden of production of evidence shifts to the respondent (see, e.g., [WIPO Overview 3.0](#), section 2.1; *Sanofi v. Cimpress Schweiz GmbH*, WIPO Case No. [D2017-0522](#)).

Paragraph 4(c) of the Policy lists three non-limitative examples of instances in which a respondent may establish rights or legitimate interests in a disputed domain name.

The Complainant has substantiated that none of these circumstances apply in this case. By defaulting, the Respondent has failed to rebut the *prima facie* case established by the Complainant. Furthermore, based on the record before it, the Panel does not see an indication that any of the circumstances of paragraph 4(c) of the Policy is present.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name. Paragraph 4(a)(ii) is thereby fulfilled.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, a complainant must show that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) of the Policy lists four non-limitative circumstances which may be considered as evidence of registration and use in bad faith of a domain name.

In the present case, the Trademarks are registered by the Complainant and have been used for many years. The Complainant's rights to the Trademarks predate the registration date of the Domain Name. In light of the well-known character and the strong worldwide reputation of the Trademarks, especially in the field of gambling, the Panel agrees with the Complainant that it is not conceivable that the Respondent chose the Domain Name without knowledge of the Complainant's activities and its Trademarks under which the Complainant is doing business. The well-known character of the Trademarks of the Complainant has been confirmed by earlier UDRP panels (see e.g., *La Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. Registration Private, Domains By Proxy, LLC / James Robinson, Registration Private, Domains By Proxy, LLC / Wilson Tee*, WIPO Case No. [D2019-0939](#); and *La Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. Lucan Toh and Max Wright*, WIPO Case No. [D2007-0249](#)).

Further, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to his website by depicting gambling-related content on the website to which the Domain Name resolves, thus creating an association with the Complainant and its activities. This way, the Respondent has unduly benefitted from the Complainant's reputation by creating this association. In light of the reputation of the Trademarks and the lack of any rights or legitimate interest in the Domain Name by the Respondent, the Panel finds from the present circumstances that the Respondent has intentionally sought to take unfair advantage of the Trademarks. Further, the Respondent provided incomplete contact details to the Registrar.

Accordingly, the Panel finds that the Domain Name has been registered and is being used in bad faith and that the third element of paragraph 4(a)(iii) of the Policy is fulfilled.

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, <montecarlo777.online>, be transferred to the Complainant.

/Gregor Vos/

Gregor Vos

Sole Panelist

Date: April 14, 2023