

ADMINISTRATIVE PANEL DECISION

Yggdrasil Malta Limited v. Nikolay Corobov
Case No. D2023-1041

1. The Parties

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

The Respondent is Nikolay Corobov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <double-dragons-yggdrasil.online> is registered with Registrar of Domain Names REG.RU LLC (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on March 8, 2023. On March 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 10, 2023, 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 (Protection of Private Person) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 15, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same date, the Center sent an email communication in English and Russian in respect of the language of the proceeding, as the language of the registration agreement for the disputed domain name is Russian. On March 17, 2023, the Complainant filed an amended Complaint and requested that English be the language of the proceeding. The Respondent did not submit any comments on the language of the proceeding.

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 March 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 11, 2023. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent's default on April 12, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on April 24, 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, operating as Yggdrasil Gaming, is a provider of online gaming solutions for i-gaming operators. It was established in 2013 and has offices in Poland, Sweden, Gibraltar and Malta. The Complainant offers over 150 games, one of which is branded Double Dragons – a slot game launched in 2016 in different languages, including Russian.

The Complainant is the owner of the following trademark registrations for the sign "YGGDRASIL" (the "YGGDRASIL trademark"):

- the European Union Trade Mark YGGDRASIL with registration No. 015691959, registered on November 4, 2016 for goods and services in International Classes 9, 35, 41 and 42; and
- the International trademark YGGDRASIL with registration No. 1538272, registered on May 4, 2020 for goods and services in International Classes 9, 35, 41 and 42.

The Complainant is also the owner of the European Union Trade Mark DOUBLE DRAGONS (the "DOUBLE DRAGONS trademark" with registration No. 018504826, registered on October 19, 2021 for goods and services in International Classes 9 and 41.

The Complainant is also the owner of the domain names <yggdrasilonline.com> and <yggdrasilgaming.com> which resolve to the Complainant's main website, offering online casino games.

The disputed domain name was registered on December 26, 2022. It resolves to a Russian-language website that appears to offer the Complainant's Double Dragons game.

5. Parties' Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its YGGDRASIL and DOUBLE DRAGONS trademarks, because it incorporates them in their entirety. According to the Complainant, considering the reputation and high degree of recognition of the YGGDRASIL and YGGDRASIL GAMING trademarks in the gaming industry, an Internet user or an email recipient would most probably assume a connection with or endorsement from the Complainant and its business when seeking information on a website with the disputed domain name.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because it is not related to the Complainant and is not authorized to use the YGGDRASIL or the DOUBLE DRAGONS trademarks in connection with a website providing casino business, email communication or for any other purpose. The Complainant adds that the Respondent is not using the disputed domain name in connection with *bona fide* offering of goods or services, is not generally known by the disputed domain name and has not acquired any trademark or service mark rights in that name or mark.

The Complainant notes that the disputed domain name resolves to an active website that links to third-party online casinos and provides registration of contact information and credit cards. The Complainant concludes that the Respondent is intentionally diverting consumers for commercial gain by providing the Complainant's

online casino games without permission. According to the Complainant, the unauthorized use of the Complainant's trademarks and copyright for the same kind of business is damaging and diluting the reputation of the Complainant's business, and shows that the Respondent is well aware of the Complainant.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the composition of the disputed domain name shows that the Respondent must have known of the Complainant's YGGDRASIL and DOUBLE DRAGONS trademarks and its business and could not have registered and used the disputed domain name for any reason other than to trade off the goodwill and reputation of Complainant's trademarks or to create a false appearance of association, sponsorship or endorsement by the Complainant. The fact that the Respondent is redirecting visitors to commercial Russian gaming websites shows that the Respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural issue - Language of Proceedings

The Complainant requests that English be the language of the proceeding and advances the following arguments in this regard:

- the disputed domain name is comprised of Latin characters and uses the English spelling and wording of "double dragons";
- the Respondent is well aware of the Complainant since the website at the disputed domain name includes Complainant's copyright-protected works; and
- the Complainant is unable to communicate in Russian, and the translation of the Complaint would unfairly burden for the Complainant and delay the proceedings.

According to the information provided by the Registrar, the language of the Registration Agreement for the disputed domain name is Russian. Under paragraph 11 of the Rules, unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Center has sent all its communications to the Respondent in both English and Russian, and has invited the Respondent to express its views on the language of the proceeding. The Respondent has not submitted a Response or any objections to the Complainants' request that the proceedings be held in English.

The disputed domain name indeed includes English-language words, and as discussed below in this decision, the circumstances of this case indeed show that the Respondent must be well aware of the Complainant and its Double Dragons game.

The above considerations lead the Panel to the conclusion that the Respondent would not be disadvantaged if the language of the proceeding is English, and that using the English language in this proceeding would be fair and efficient.

Therefore, in exercise of its powers under paragraph 11 of the Rules, the Panel decides that the language of this administrative proceeding will be English.

6.2. Substantive issues

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain name:

- (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 was registered and is being used in bad faith.

In this case, the Center has employed the required measures to achieve actual notice of the Complaint to the Respondent, in compliance with the Rules, paragraph 2(a), and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: “[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name [...]”

The Respondent however did not submit a Response in this proceeding.

A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the owner of the DOUBLE DRAGONS and of the YGGDRASIL trademarks and has thus established its rights in these trademarks for the purposes of the present proceeding.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the Top-Level Domain (“TLD”) section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The Panel sees no reason not to follow the same approach here, so it will disregard the “.online” gTLD section of the disputed domain name.

The disputed domain name incorporates the DOUBLE DRAGONS and of the YGGDRASIL trademarks in their entirety with the addition of hyphens between the three words, and the trademarks are easily recognizable in the disputed domain name. 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 for purposes of UDRP standing. See section 1.7 of the [WIPO Overview 3.0](#).

In view of the above, the Panel finds that the disputed domain name is confusingly similar to the DOUBLE DRAGONS and of the YGGDRASIL trademarks in which the Complainant has rights.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP 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. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, because it is not known by the disputed domain name and has not acquired any relevant trademark rights, is not related to the Complainant and is not authorized to use the YGGDRASIL or the DOUBLE DRAGONS trademarks. The Complainant points out that the Respondent is not using the disputed domain name in connection with a *bona fide* offering of goods or services, because it resolves to a website redirecting to third-party online casinos, so the Respondent is intentionally diverting consumers for commercial gain. Thus, the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not submitted a Response and has not alleged that it has rights or legitimate interests in the disputed domain name or disputed the Complainant's allegations in this proceeding. The evidence in the case file shows that the disputed domain name indeed resolves to a website that features the Complainant's Double Dragons game. This website contains the following statements:

“Игровой автомат Double Dragons от надёжного и качественного производителя yggdrasilgaming с прекрасной графикой, большим выбором бонусных возможностей и интересными раундами.” (in English: “Double Dragons slot machine from the reliable and quality manufacturer yggdrasilgaming with great graphics, a wide range of bonus features and interesting rounds.”)

“Разработчики из Yggdrasil Gaming отлично поработали над внешним видом машины, сделав ее красочной и максимально детализированной.” (in English: “The developers from Yggdrasil Gaming did a great job on the appearance of the machine, making it colorful and as detailed as possible.”)

The website also contains a link with the title “Yggdrasil Перейти на сайт создателей” (in English: “Yggdrasil Go to the creators' website”), which however redirects to a third-party casino website, and not to the Complainant's website. The same redirection takes place when one attempts to access the “Double Dragons” game featured on the website.

The website also contains the copyright notice in English “© 2018 Yggdrasil Gaming. All rights reserved”.

The above content of the website at the disputed domain name shows that the Respondent is well aware of the Complainant, its Double Dragons game and the YGGDRASIL or the DOUBLE DRAGONS trademarks. In view of the fact that the website contains the copyright notice cited above but no disclaimer for lack of relationship with the Complainant, and of the fact that an attempt to access the game featured on the website actually redirects to the website of a competitor of the Complainant offering online casino games, the Panel reaches the conclusion that the Respondent has registered and used the disputed domain name in an attempt to exploit the goodwill of the Complainant and of its trademarks to attract Internet users to the Respondent's website and redirect them to a competitor of the Complainant for commercial gain. To the Panel, such conduct does not appear to be legitimate nor giving rise to rights or legitimate interests of the Respondents in the disputed domain names.

In view of the above, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, 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 website 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.”

As discussed above, the disputed domain name is confusingly similar to the YGGDRASIL and the DOUBLE DRAGONS trademarks. The Respondent does not deny that it has used the disputed domain name for a website that features the Complainant's Double Dragons online game, but an attempt to access the game redirects visitors to the online casino website of a competitor of the Complainant.

Taking the above into account, the Panel accepts that the Respondent has registered and used the disputed domain name with knowledge of the Complainant and targeting the YGGDRASIL and DOUBLE DRAGONS trademarks in an attempt to attract, for commercial gain, Internet users to the website of a competitor of the Complainant, by creating a likelihood of confusion with the YGGDRASIL or the DOUBLE DRAGONS trademarks as to the affiliation or endorsement of its website and its content.

Since the Respondent's website claims to offer access to the Complainant's Double Dragons game, but instead redirects visitors to a competitor of the Complainant, this conduct also supports a finding that the Respondent has registered and used the disputed domain name for the purpose of disrupting the business of a competitor.

Therefore, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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 <double-dragons-yggdrasil.online> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: May 8, 2023