

ADMINISTRATIVE PANEL DECISION

EVOLUTION AB (publ) v. Andreas Phanis

Case No. D2023-1122

1. The Parties

The Complainant is EVOLUTION AB (publ), Sweden, represented by Zacco Sweden AB, Sweden.

The Respondent is Andreas Phanis, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <evolutiongamingslots.com> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 14, 2023. On March 14, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 26, 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 amendment to the Complaint on March 28, 2023.

The Center verified that the Complaint together with the amendment to the 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 April 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 26, 2023.

The Center appointed Jeremy Speres as the sole panelist in this matter on May 1, 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

Founded in 2006, the Complainant, itself and via its subsidiaries, provides online casino services to gaming operators under its EVOLUTION and EVOLUTION GAMING marks. The Complainant's reputation in its EVOLUTION GAMING mark has been recognised by prior UDRP panels (see e.g. *Evolution AB v. Privacy service provided by Withheld for Privacy ehf / maibokrokA1 maibokrokA1*, WIPO Case No. [D2022-1208](#)).

The Complainant's subsidiaries own numerous trade mark registrations for the EVOLUTION GAMING mark in numerous jurisdictions, including United States of America Trade Mark Registration No. 5772462 EVOLUTION GAMING in classes 9, 28, 42 with registration date June 11, 2019, in the name of Evolution Malta Limited, which is a wholly-owned subsidiary of the Complainant. The Complainant also owns numerous domain names that incorporate the trade mark EVOLUTION, such as <evolutiongaming.com> which was registered by the Complainant in March 2004.

The Domain Name was registered on January 6, 2023, and resolves to a website headed "EVOLUTION GAMINGS SLOTS" offering online casino slot games, and featuring game names, imagery and logos for some of the Complainant's games.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its EVOLUTION GAMING mark, that the Respondent has no rights or legitimate interests in it, and the Domain Name was registered and used in bad faith given that it has been used to impersonate the Complainant for the Respondent's commercial gain.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant's subsidiaries own registrations for the EVOLUTION GAMING trade mark. It is well established that parent companies of subsidiaries that own trade mark registrations have standing to file UDRP complaints based on those registrations on behalf of the subsidiaries (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") at section 1.4).

The Complainant's EVOLUTION GAMING mark is wholly contained within the Domain Name with the addition of the dictionary term "slots". Where the trade mark is recognisable within the disputed domain name, as in this case, the addition of other terms (including descriptive terms) does not prevent a finding of confusing similarity ([WIPO Overview 3.0](#) at section 1.8). The Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant's EVOLUTION GAMING mark was registered and well known prior to registration of the

Domain Name. The Domain Name is confusingly similar to the Complainant's mark and the Complainant has certified that the Domain Name is unauthorised by it.

As discussed in the bad faith section below, the general impression created by the Domain Name's website is one of impersonation of the Complainant. UDRP panels have categorically held that the use of a domain name for illegal activity (e.g. impersonation) can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#) at section 2.13.1).

There is no evidence that any of the circumstances set out in paragraph 4(c) of the Policy, nor any others which might confer rights or legitimate interests upon the Respondent, pertain. The Complainant has satisfied paragraph 4(a)(ii) of the Policy by virtue of having made out an un rebutted *prima facie* case ([WIPO Overview 3.0](#) at section 2.1).

C. Registered and Used in Bad Faith

UDRP panels have consistently found that registration of a domain name that is confusingly similar (particularly domain names incorporating the mark plus a descriptive term, as in this case as discussed below) to a famous or well-known trade mark by an unaffiliated entity can by itself create a presumption of bad faith ([WIPO Overview 3.0](#) at section 3.1.4).

It is well accepted that impersonation is clear evidence of bad faith registration and use (*FLRish IP, LLC v. prince zvomuya*, WIPO Case No. [D2019-0868](#)). The Domain Name's website is clearly designed to impersonate the Complainant and betrays the Respondent's prior knowledge of the Complainant. The first two words of the website's heading "EVOLUTION GAMINGS SLOTS" are virtually identical to the Complainant's mark, with the addition of the term "slots" that describes the Complainant's business. Game names and the Complainant's copyrighted imagery and logos for some of the Complainant's games are displayed, and those games are ostensibly offered for sale at the Domain Name's website. This, combined with the composition of the Domain Name, makes it clear that the Respondent's intention was to impersonate the Complainant upon registration of the Domain Name and subsequently through its use.

The Panel moreover draws an adverse inference from the Respondent's failure to take part in the present proceeding where an explanation is certainly called for ([WIPO Overview 3.0](#) at section 4.3).

The Complainant has satisfied 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 Domain Name, <evolutiongamingslots.com>, be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: May 12, 2023