

ADMINISTRATIVE PANEL DECISION

Riot Games, Inc. v. Dino Kua
Case No. D2023-2408

1. The Parties

The Complainant is Riot Games, Inc., United States of America (“United States”), represented by Marq Vision Inc., Republic of Korea.

The Respondent is Dino Kua, Malaysia.

2. The Domain Name and Registrar

The disputed domain name <valorantmalaysia.com> (“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 June 5, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. Also on June 5, 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 (Unknown) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 6, 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 June 7, 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 June 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 27, 2023. The Respondent sent several informal communications but did not submit any substantive response. Accordingly, the Center notified the Commencement of Panel Appointment Process on June 28, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on July 4, 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 is a United States company that produces and distributes online games. Since 2020 the Complainant has offered a computer game under a trade mark consisting of the word “Valorant” (the “VALORANT Mark”). The Complainant is also the owner of the domain name <playvalorant.com> from which it operates a website (“Complainant’s Website”) promoting the Valorant computer game.

The Complainant holds a number of registered trade marks in the United States for the VALORANT Mark, including trade mark registration number 6,450,143, registered on August 10, 2021, for various computer game services in class 41.

The Domain Name <valorantmalaysia.com> was registered on November 18, 2022. The Domain Name resolves to a website (“Respondent’s Website”) that purports to offer the opportunity to purchase “top up” (also known as game money) for the Complainant’s “Valorant” game. The Respondent’s Website copies material from the Complainant’s Website, reproduces numerous logos of the Complainant and contains the (according to the Complainant) incorrect statement “Valorant Malaysia is a direct shop from Riot”.

5. Parties’ Contentions

A. Complainant

The Complainant makes the following contentions:

- (i) the Domain Name is identical or confusingly similar to the Complainant’s VALORANT Mark;
- (ii) the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the VALORANT Mark having registered the VALORANT Mark in the United States. The Domain Name wholly incorporates the VALORANT Mark along with the geographic term “malaysia” and the “.com” Top-Level Domain (“TLD”).

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the VALORANT Mark. The Respondent does not use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Rather the Domain Name resolves to the Respondent’s Website where the Respondent operates a fake website where it passes off as an official website of the Complainant for commercial gain. This activity does not provide the Respondent with rights or legitimate interests.

The Domain Name was registered and is being used in bad faith. Given the reputation of the VALORANT Mark, the registration of the Domain Name can only be taken as an attempt by the Respondent to gain an unfair benefit from the Complainant’s reputation. By using the Domain Name to resolve to a website that purports to offer “top up” money for the Complainant’s “Valorant” game without the Complainant’s authorization, the Respondent is using the Domain Name to divert Internet users searching for the Complainant to its own website for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. The Respondent sent a number of short email communications to the Center but did not address the elements of the Policy in any way.

6. Discussion and Findings

A. Identical or Confusingly Similar

To prove this element, the Complainant must have trade or service mark rights, and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the VALORANT Mark, having a registration for the VALORANT Mark as a trade mark in the United States.

The Domain Name incorporates the VALORANT Mark in its entirety with the addition of the geographic term "malaysia" and the TLD ".com". Other UDRP panels have repeatedly held that where the relevant trade mark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element, see section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the Domain Name is confusingly similar to the Complainant's VALORANT Mark. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

To succeed on this element, a complainant may make out a *prima facie* case that the respondent lacks rights or legitimate interests in the disputed domain name. If such a *prima facie* case is made out, the respondent then has the burden of demonstrating rights or legitimate interests in the disputed domain name.

Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name:

"Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trade mark or service mark rights; or

(iii) you are making legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue."

The Respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the VALORANT Mark or a mark similar to the VALORANT Mark. There is no evidence that the Respondent is commonly known by the Domain Name or any similar name.

There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

The Respondent uses the Domain Name to operate the Respondent's Website where it purports to sell "top up" money for the Complainant's "Valorant" game. It is unclear whether the "top up" money advertised on the Respondent's Website is actually sold and/or is usable in Complainant's game. If the "top up" money is not genuine/usable then the Respondent's Website is simply a scam website and such use does not amount to a legitimate noncommercial or fair use or a *bona fide* offering of goods or services.

Even if the Respondent was offering a genuine product that could be used for the "Valorant" game from the Respondent's Website, such use does not automatically grant it rights and legitimate interests. The principles that govern whether a service provider of genuine goods has rights or legitimate interests have been set out in a variety of UDRP decisions, starting with the case of *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

The [WIPO Overview 3.0](#), section 2.8 summarizes the consensus views of UDRP panels in assessing claims of nominative (fair) use by service providers in the following manner:

"[...] Panels have recognized that resellers, distributors, or service providers using a domain name containing the complainant's trademark to undertake sales or repairs related to the complainant's goods or services may be making a *bona fide* offering of goods and services and thus have a legitimate interest in such domain name. Outlined in the 'Oki Data test', the following cumulative requirements will be applied in the specific conditions of a UDRP case:

- (i) the respondent must actually be offering the goods or services at issue;
- (ii) the respondent must use the site to sell only the trademarked goods or services;
- (iii) the site must accurately and prominently disclose the registrant's relationship with the trademark holder; and
- (iv) the respondent must not try to 'corner the market' in domain names that reflect the trademark.

The Oki Data test does not apply where any prior agreement, express or otherwise, between the parties expressly prohibits (or allows) the registration or use of domain names incorporating the complainant's trademark."

In this case, the Respondent's Website does not accurately or prominently disclose the Respondent's relationship with the Complainant, or lack thereof, in particular that it is not an authorized dealer or has any particular connection with the Complainant. Rather, the Respondent's Website, through the use of the Complainant's logos, copyrighted material and by making express statements of affiliation, passes off as an official website of the Complainant, which is not the case. Even in the event that the Respondent is offering genuine "top up" money for the Complainant's "Valorant" game, its use of the Domain Name for the Respondent's Website in the circumstances described above does not grant it rights or legitimate interests in the Domain Name.

The Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has had the opportunity to put on potential evidence of its rights or legitimate interests, including submissions as to why its conduct amounts to a right or legitimate interest in the Domain Name under the Policy. The Respondent limited itself to send several informal communications, such as: "So I will get refund from you guys?" and "Why don't just we use chatting method ? Get my whatsapp (...)". In the absence of a Response to the Complainant's contentions, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

For the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without

limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:

- (i) circumstances indicating that the respondent has registered or has 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 trade mark or service mark or to a competitor of the complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trade mark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its 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 the respondent's website or location or of a product or service on the respondent's website or location (Policy, paragraph 4(b)).

The Panel finds that the Respondent was aware of the Complainant and its reputation in the VALORANT Mark at the time the Domain Name was registered. The Respondent's Website purports to offer "top up" game money for the Complainant's "Valorant" game and makes multiple references to the Complainant. The registration of the Domain Name in awareness of the VALORANT Mark and in the absence of rights or legitimate interests amounts under these circumstances to registration in bad faith.

The Respondent registered the Domain Name for the purposes of operating a website that passes off as an official website of the Complainant either to operate a scam, which if the case would clearly be bad faith, or to sell products connected with the Complainant's game. If the latter is the case, the Respondent is using the Domain Name to sell products, be they genuine or otherwise without the Complainant's approval and without meeting the "Oki Data" test. Consequently, the Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant and the Complainant's VALORANT Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website.

Accordingly, the Panel finds that the Respondent has registered and used the Domain Name in bad faith 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 Domain Name <valorantmalaysia.com> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: July 13, 2023