

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v.
line MKT, ดิว ฟูรกกร monaco789.com
Case No. D2023-2661

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 line MKT, ดิว ฟูรกกร monaco789.com, Thailand.

2. The Domain Name and Registrar

The disputed domain name <monaco789.com> is registered with 1API GmbH (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2023. On June 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 22, 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 (Domain Admin, Privacy Protect, LLC(PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 25, 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 June 28, 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 July 4, 2023. In accordance with the Rules, paragraph 5, the due date for filing a response was July 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 29, 2023.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on August 9, 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, by Sovereign Decree. It is a company organized under the laws of Monaco, is domiciled in Monaco, and its main shareholders are the Principality of Monaco and the House of Grimaldi. It is currently the largest employer in its jurisdiction.

The Complainant operates the Casino de Monte-Carlo, which is one of the most famous casinos in the world.

The Complainant is the owner of several trademark registrations for MONACO and MONTE-CARLO, among which are the following:

Trademark	No. Registration	Jurisdiction	Date of Registration
CASINO DE MONACO	02.23234	Monaco	September 30, 2002
CASINO DE MONTE-CARLO	96.17407	Monaco	October 10, 1996
MONACOPOKER	09.27380	Monaco	May 26, 2009
MONACOBET	09.27373	Monaco	May 26, 2009
MONACOSPORTBET	09.27370	Monaco	May 26, 2009
MONACOWIN	09.27372	Monaco	May 26, 2009
MONACOGAMING	09.27371	Monaco	May 26, 2009

The Respondent registered the disputed domain name on October 20, 2022. The disputed domain name resolves to a gambling website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends the following:

I. Identical or Confusingly Similar

That the disputed domain name is identical or at least confusingly similar to the Complainant's trademark CASINO DE MONACO and its other trademarks comprising the term "Monaco", because it is entirely incorporated into said disputed domain name.

That the disputed domain name associates the Complainant's trademark CASINO DE MONACO with the numbers "789", which directly evokes the field of gambling. That the addition of the number "789" does not avoid a finding of confusing similarity with the Complainant's prior trademarks.

That, in similar cases filed by the Complainant, panels appointed under the Policy have ruled that the addition of elements to disputed domain names which included the term "Monaco" did not prevent said term from being recognizable within said domain names.

That the Complainant's casino is referred to by the public as the "CASINO DE MONACO" as both names "Monaco" and "Monte-Carlo" are used interchangeably by the public, as pointed out by some panels appointed under the Policy.

II. Rights or Legitimate Interests

That the Complainant has never authorized the Respondent to register and use the disputed domain name that contains its trademark CASINO DE MONACO.

That the Complainant has searched in trademark databases for trademark registrations or applications regarding "Monaco789" and did not find any results in any searchable jurisdiction.

III. Registered and Used in Bad Faith

That the strong reputation and world renown of the Complainant's trademarks render it impossible for the Respondent to have been unaware that the registration and use of the disputed domain name would violate the Complainant's rights.

That the trademarks CASINO DE MONACO and CASINO DE MONTE CARLO are well-known especially in the field of gambling

That the Respondent is clearly a professional in the gambling industry, which can be seen from the various tips it provides to players regarding payment methods and facilities as shown on the website to which the disputed domain name resolves. That, on said website, the Respondent claims that it is a "gabling game provider that has been in service for more 10 years [*sic.*]"

That the Respondent's decision to register the disputed domain name in order to use it in the field of gambling constitutes evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

Given the Respondent's failure to submit a formal Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with Paragraphs 5(f), 14(a), and 15(a) of the Rules, (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

A. Identical or Confusingly Similar

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1. In this regard, the Complainant has trademarks comprising the term "Monaco", such as CASINO DE MONACO, MONACOPOKER, MONACOBET, MONACOSPORTBET, MONACOWIN, and MONACOGAMING.

The Panel finds the mark is recognizable within the disputed domain name. The main element of many of the Complainant's marks, "Monaco", is reproduced in its entirety, and the disputed domain name is being used for a website connected to gambling, which supports a finding of confusing similarity. Accordingly, the disputed domain name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms here, “789”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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

Having reviewed the record, the Panel finds 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 rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

This Panel agrees with *Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. Tanwa Chairat*, WIPO Case No. [D2021-3797](#), in that CASINO DE MONACO is a globally famous trademark.

According to the evidence filed by the Complainant, the website to which the disputed domain name resolves is an online gambling site, where references are made to casino games, casino chips, playing cards, and the like. Considering the confusing similarity between the disputed domain name and the Complainant’s trademarks, this Panel finds that the Respondent is using the disputed domain name in a parasitic manner, with intent for commercial gain, to misleadingly divert consumers, and therefore not making a *bona fide* offering of goods or services.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the fact that the Respondent chose to register the disputed domain name which is confusingly similar to the famous CASINO DE MONACO trademark, and which resolves to a website that offers online gambling services, suggests that the Respondent knew the Complainant (operator of one of the most famous casinos in the world), its trademarks, and its business when registering the disputed domain name, and that the Respondent has targeted the Complainant.

By making the disputed domain name resolve to a gambling website, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to said website by creating a likelihood of confusion with the Complainant’s famous mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

Based on the available record, the Panel finds the third element of the Policy has been established.

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 <monaco789.com> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: August 23, 2023.