

## **ADMINISTRATIVE PANEL DECISION**

Sandals Resorts International 2000 Inc v. DNS Admin  
Case No. D2023-4577

### **1. The Parties**

The Complainant is Sandals Resorts International 2000 Inc, Panama, represented by Dechert, United Kingdom.

The Respondent is DNS Admin, the Netherlands (Kingdom of).

### **2. The Domain Name and Registrar**

The disputed domain name <beachescasino.com> is registered with PSI-USA, Inc. dba Domain Robot (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 3, 2023. On November 6, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name that differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 9, 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 November 14, 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 November 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on December 6, 2023.

The Center appointed Matthew Kennedy as the sole panelist in this matter on December 14, 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 offers beach resort holidays. It opened its first holiday resort in 1997 and now has three “Beaches” hotels: one in the Turks and Caicos Islands and two in Jamaica. The Complainant owns multiple trademark registrations, including the following (the “BEACHES trademark”):

- European Union trade mark registration number 000169995 for a semi-figurative BEACHES mark, registered on June 5, 1998, specifying goods and services in classes 16, 25, 28, and 42;
- United States of America (“United States”) trademark registration number 2951577 for BEACHES, registered on May 17, 2005, with claims of first use in commerce on April 15, 1995 and in 1997, specifying services in classes 39 and 43;
- United States trademark registration number 3070140 for BEACHES, registered on March 21, 2006, with claims of first use in commerce in 1998, specifying goods in classes 16, 18, and 25; and
- European Union trade mark registration number 009401357 for BEACHES, registered on March 22, 2012, specifying services in classes 35, 39, 41, 43, and 44.

The above trademark registrations are current. The Complainant also uses the domain name <beaches.com> in connection with a website where it provides information about its resorts and accepts bookings. The Complainant’s resorts have received multiple awards in the past 24 years. The evidence shows that the Complainant’s resorts have also received significant coverage in international press, including advertising and reviews.

According to the Registrar, the Respondent is an Internet service provider.

The disputed domain name was registered on September 28, 2023. It resolves to a webpage hosted by a domain name broker which states that the disputed domain name is not properly configured, and that the owner of the disputed domain name uses the name servers of the broker but has not yet added the name to their portfolio. The webpage invites Internet users to register to receive an update when the disputed domain name becomes available for sale again.

The Complainant sent a cease-and-desist letter to the Respondent on October 26, 2023. The Respondent did not reply to it.

#### **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 that the disputed domain name is confusingly similar to the Complainant’s BEACHES mark. The addition of the word “casino” risks misleading Internet users to understand they are being directed to services provided by or related to the Complainant. Casinos are a feature of some resort hotels, leading consumers to potentially believe this could be a new service provided by the Complainant.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not licensed or otherwise permitted or authorized the Respondent to use its trademarks or to apply for a domain name incorporating any of them.

The disputed domain name has been registered and is being used in bad faith. The disputed domain name was registered over two decades after the Complainant first started using its trademarks and the Complainant has substantial goodwill and reputation in those trademarks. The Respondent operates, or intends to operate, the disputed domain name intentionally to detract from the Complainant's legitimate website and to have a vehicle through which, in future, they would attract Internet users to its website or other on-line locations for commercial gain by creating a likelihood of confusion with the BEACHES trademark as to the source, sponsorship, affiliation or endorsement of its websites or a product or service on its websites.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements:

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

The burden of proof of each element is borne by the Complainant.

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of the BEACHES trademark and service mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the BEACHES mark is recognizable within the disputed domain name. Although the addition of the term "casino" may bear on assessment of other 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 first element of paragraph 4(a) of the Policy. See [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel finds that 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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

The disputed domain name resolves to a webpage that invites Internet users to register to obtain updates on when the disputed domain name becomes available for sale again. Nothing indicates that the disputed domain name is being used in connection with a bona fide offering of goods or services for the purposes of the Policy, nor a legitimate noncommercial or fair use. Further, the Registrar has verified that the Respondent’s name is “DNS Admin”, which is not the disputed domain name. Nothing on the record indicates that the Respondent has been commonly known by the disputed domain name.

Having reviewed the available 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.

The Panel finds that the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. See [WIPO Overview 3.0](#), section 3.2.1.

The Panel notes that the disputed domain name was registered in 2023, many years after the registration of the Complainant’s BEACHES trademarks, including in the European Union, where the Respondent is located. The disputed domain name wholly incorporates the BEACHES trademark. While “beaches” is also an English dictionary word, the disputed domain name combines that word with “casino”, which has little or no apparent relevance to the dictionary meaning of “beaches”. However, the Panel accepts that a “casino” is part of certain holiday resorts, and therefore relevant to holiday resorts, which is the type of service in connection with which the Complainant uses its BEACHES mark, even though there may be no casino at any of the Complainant’s particular resorts. The Respondent does not suggest any other reason for combining “beaches” with “casino” in the disputed domain name. In these circumstances, the Panel has reason to find it more likely than not that the Respondent had the Complainant’s BEACHES trademark in mind when it registered the disputed domain name.

As regards use, the disputed domain name resolves to a webpage hosted by a domain name broker that invites Internet users to register to obtain updates on when the disputed domain name becomes available for sale again. No sale price is published. There is no evidence on the record as to whether and how the broker responds when an Internet user registers for updates. Although it does not appear that the disputed domain name is currently being offered for sale, such a sale is clearly envisaged by the Respondent. In the present case, the Panel notes that the Complainant has made wide and longstanding use of its BEACHES mark in connection with holiday resorts, and that the BEACHES mark has received numerous awards and significant international press coverage over the years. The disputed domain name wholly incorporates the BEACHES trademark as its initial element and combines it with the word “casino”, which is relevant to holiday resorts. The Respondent provides no explanation of any intended good faith use of the disputed domain name. In these circumstances, the Panel considers it more likely than not that the disputed domain name is being used in bad faith.

The Panel finds that 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 <beachescasino.com> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: December 21, 2023