

ADMINISTRATIVE PANEL DECISION

Yggdrasil Malta Limited v. Domain Manager, RocketStats Media Limited
Case No. D2023-4685

1. The Parties

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

The Respondent is Domain Manager, RocketStats Media Limited, Malta.

2. The Domain Names and Registrar

The disputed domain names <yggdrasilgaming.games> and <yggdrasilslot.games> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 10, 2023. On November 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On November 13, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 16, 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 21, 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 22, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 26, 2023.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on January 10, 2024.

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

It results from the Complainant's undisputed allegations that the Complainant is a provider of online gaming solutions for i-gaming operators. It was established in 2013 and offers over 150 games.

The Complaint is based amongst others on the following European Union trademarks registered in the Complainant's name and covering in particular also the territory of Malta, where both parties are located.

- European Union Trade Mark No. 015691959, YGGDRASIL registered on November 4, 2016 for goods and services in Classes 9, 35, 41, and 42;
- European Union Trade Mark No. 015059959, YGGDRASIL GAMING registered on July 20, 2016 for goods and services in Classes 9, 35, 41, and 42;

Both disputed domain names were registered on October 27, 2023. Both disputed domain names currently resolve to a parking website, operated by Namecheap and containing commercial pay-per-click (PPC) links. Finally, it results from the Complainant's undisputed allegations that both disputed domain names have active Mail Exchange ("MX") servers connected.

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 names.

Notably, the Complainant contends that:

- (1) both disputed domain names appear to be under the common control;
- (2) the disputed domain names are confusingly similar to the Complainant's trademarks YGGDRASIL and YGGDRASIL GAMING which they entirely incorporate followed by the words "slot", "gaming" and the generic Top-Level Domain ("gTLD") "games";
- (3) the Respondent has no prior rights or legitimate interests in the disputed domain names. In particular, (i) the Respondent is not commonly known by the disputed domain names; (ii) since MX records are configured in connection with the disputed domain names, there is an actual risk that the Respondent could create email addresses to send fraudulent emails to customers and gaming operators, pretending to be the Complainant in order to collect personal data or encourage financial transactions;
- (4) the Respondent registered and is using the disputed domain names in bad faith, by seeking to create a misleading impression of affiliation or endorsement between the disputed domain names and the Complainant, when in reality no such relationship exists. According to the Complainant, it is apparent from the composition of the disputed domain name that the Respondent must have known the Complainant's trademarks and gaming business. In addition, the Respondent has configured MX records for the disputed domain names which indicates, according to the Complainant, an intention to potentially use the disputed domain names for illegal purposes.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain names should be transferred or cancelled:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

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. 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The first disputed domain name <ygdrasilslot.games> reproduces the entirety of the Complainant’s trademark YGGDRASIL. The second disputed domain name <ygdrasilgaming.games> reproduces even both of the Complainant’s trademarks YGGDRASIL and YGGDRASIL GAMING. As a result, the entirety of the marks is reproduced within the disputed domain names.

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

The Panel finds the disputed domain names are confusingly similar or identical to the Complainant’s trademarks and consequently, 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. [WIPO Overview 3.0](#), section 2.1.

(1) First, it results from the evidence provided by the Complainant that the disputed domain names are connected to a parking page, featuring commercial PPC links to websites. This Panel is of the opinion that such use does not represent a *bona fide* offering of goods or services, and therefore cannot constitute

bona fide offering of goods and services giving rise to rights or legitimate interests in the disputed domain names under paragraph 4(c)(i) of the Policy. Previous UDRP panels found that such parking pages with commercial links do not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users (see section 2.9 of the [WIPO Overview 3.0](#)). This is the case here, since the website containing PPC links is in no way connected to the Complainant or its trademarks. In addition, the fact that the disputed domain names combine the Complainant's trademarks with terms linked to the gaming business tends to falsely suggest to users a sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1 for fair use pursuant to paragraph 4(c)(iii) of the Policy).

(2) Second, the Panel notes that there is no evidence in the record that could lead to the conclusion that the Respondent is commonly known by the disputed domain names in the sense of paragraph 4(c)(ii) of the Policy. In addition, the Respondent does not appear to have any connection or affiliation with the Complainant.

(3) Finally, the above-described use of the disputed domain names for a parking page featuring multiple commercial PPC links excludes any noncommercial use in the sense of paragraph 4(c)(iii) of the Policy from the outset.

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 names. 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 names such as those enumerated in the Policy or otherwise.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and is being 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. [WIPO Overview 3.0](#), section 3.2.1.

One of those circumstances are those specified in paragraph 4(b)(iv) of the Policy, i.e. where the domain name is used to intentionally attempt 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 [the respondent's] website or location or of a product or service on [the respondent's] website or location.

In the Panel's view, the Respondent has intentionally registered the disputed domain names which identically contain the Complainant's trademarks. Given that both Parties are located in the same country, by the time the disputed domain names were registered, it is unlikely that the Respondent was unaware of the Complainant and its marks YGGDRASIL and YGGDRASIL GAMING, both identically included in the disputed domain names. These findings are reinforced by the inclusion of the terms "slot" and "gaming" in the disputed domain names, as well as the choice of the gTLD "games", all referring to the Complainant's field of business. The Complainant also proved that the Respondent is using the disputed domain names to resolve to a hosting parking page with commercial PPC links. These facts confirm that the disputed domain names are used to intentionally attempt to attract, for commercial gain, Internet users to the Respondent's websites, by creating a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website.

Finally, the fact that the disputed domain names have been connected to active MX records creates a risk that the Respondent might be engaged in a phishing scheme.

In the light of the above, the Panel finds that the Complainant has established the third element 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 disputed domain names <yggdrasilgaming.games> and <yggdrasilslot.games> be transferred to the Complainant.

/Tobias Malte Müller/

Tobias Malte Müller

Sole Panelist

Date: January 24, 2024