

ADMINISTRATIVE PANEL DECISION

Yggdrasil Malta Limited v. Chance Duin

Case No. D2023-4738

1. The Parties

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

The Respondent is Chance Duin, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <yggdrasilgaming.net> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2023. On November 15, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 15, 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 (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 16, 2023.

On November 16, 2023, the Respondent sent an email communication to the Center of which the Center acknowledged receipt on November 17, 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 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 7, 2023. The Center notified the Parties of the commencement of panel appointment process on December 8, 2023.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on December 15, 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 following facts are undisputed.

The Complainant, also known as Yggdrasil Gaming, is a provider of online gaming solutions for Internet gaming (i-gaming) operators. The business was founded in 2013. It has offices in Poland, Sweden, Gibraltar and Malta.

The Complainant operates a scalable business model and covers three product verticals: Casino Slots, Table Games and Bingo, in addition to the business verticals: Yggdrasil White Label Studios, YGS Masters and Yggdrasil Dragons.

The Complainant has also won several awards in the gambling industry, e.g.

- 2015 – Software Rising Star of the Year award by the EGR B2B Awards
- 2016 – Gaming Software Supplier of the Year award by the International Gaming Awards.
- 2016 – Slot Provider of the Year award by the EGR B2B Awards. - 2017 – Slot Provider of the Year award by the EGR B2B Awards.
- 2018 – Innovator of the Year award by the International Gaming Awards.
- 2018 – Innovator in the RNG Casino Software award by the EGR B2B Awards.
- 2019 – Innovator of the Year award by the International Gaming Awards.
- 2019 – Innovator in RNG Casino Software Supplier award by the EGR B2B Awards

The Complainant has acquired gambling licenses in many jurisdictions, e.g., United Kingdom (“UK”) Gambling Commission, Malta Gaming Authority (MGA), and the gaming authority in Gibraltar, UK. The Complainant has now over 150 games on the market, including “Double Dragons”, “Empire Fortunes” and “Vikings Go Berzerk.”

The Complainant owns various registrations for trademarks containing the word element YGGDRASIL, including the European Union (“EU”) trademark registration YGGDRASIL GAMING (word mark), with registration number 015059959, registered on July 20, 2016, for goods and services in classes 9, 35, 41 and 42 (the “Trademark”).

The Complainant is the owner of several domain name registrations containing the YGGDRASIL mark, including <yggdrasilgaming.com>.

The disputed domain name was registered on February 14, 2023. At the time of filing the Complaint, it was resolving to a Pay-Per-Click (“PPC”) website. At the time of this Decision, it was not resolving to any active page.

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 Respondent cannot conceivably claim that the Respondent is commonly known by the disputed domain name, particularly given that the Complainant's trademarks are exclusively associated with the Complainant and its gaming business. Mail exchanges ("MX records") are configured in connection with the disputed domain name, there is an actual risk of created email addresses by the Respondent in order to send fraudulent emails to customers and gaming operators, pretending to be the Complainant to collect personal data or to encourage financial transactions.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions, except that on November 16, 2023, a day before the Center's formal notification of the Complaint to the Respondent, the Respondent only asked whether the Respondent needed to respond directly or whether the Registrar had to handle this.

6. Discussion and Findings

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.

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 3.0](#), section 1.2.1.

The Panel finds the entirety of the Trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

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.

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 therefore could not establish use of the disputed domain name (or demonstrable plans for such use) with a *bona fide* offering, not that the Respondent was being commonly

known by the disputed domain name, not that the Respondent is making legitimate noncommercial or fair use of the disputed domain name.

The Complainant alleged that there have been circumstances indicating that disputed domain name will be used for potential phishing and this has not been rebutted by the Respondent. Panels have held that the use of a domain name for illegal activity such as phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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, weighing all the evidence before it, finds that the Respondent has registered and is using the disputed domain name in bad faith. It is implausible, also given the nature and notoriety of the Trademark, that the Respondent was not aware of the Trademark when registering the disputed domain name.

In the present case, the Panel notes that the disputed domain name resolved to a parked page displaying PPC links to third-party websites which sufficiently establishes evidence of bad faith. As such the Panel finds that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant and its Trademark pursuant paragraph 4(b)(iv) of the Policy.

As mentioned above, the Respondent has not rebutted the Complainant's allegation that MX records have been configured and thus the risk for phishing exists. In that context, the configuration of MX records which is an indication of possible phishing supports a finding of bad faith. Panels have held that the use of a domain name for such illegal activity constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

In addition, the current non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. Panels have found that the non-use of a domain name, including the initial use for a PPC website, would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness or reputation of the Complainant's Trademark, the lack of substantive or formal response by the Respondent, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

Based on the available record, 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 name <ygdrasilgaming.net> be transferred to the Complainant.

/Willem J. H. Leppink/

Willem J. H. Leppink

Sole Panelist

Date: December 20, 2023