

## **ADMINISTRATIVE PANEL DECISION**

### **CODERE NEWCO, S.A.U. v. Andrey Skalev**

### **Case No. D2024-0015**

#### **1. The Parties**

The Complainant is CODERE NEWCO, S.A.U., Spain, internally represented.

The Respondent is Andrey Skalev, Russian Federation.

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

The disputed domain name <codere-ar.com> is registered with Internet Domain Service BS Corp (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 4, 2024. On January 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 5, 2024, 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 (On behalf of codere-ar.com OWNER c/o whoisproxy.com) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 15, 2024 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 January 17, 2024.

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 January 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 21, 2024.

The Center appointed Daniel Peña as the sole panelist in this matter on February 28, 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**

The Complainant is a Spanish corporation offering gambling and casino games and the owner of the following registered trademarks for CODERE:

- Trademark No. 2693284 (word) in class 41, registered in Argentina on November 3, 2014.
- Trademark No. 2885179 (word) in class 28, registered in Argentina on April 24, 2017.
- Trademark No. 2997995 (figurative), in class 9, registered in Argentina on August 9, 2019.
- Trademark No. 2997997 (figurative), in class 41, registered in Argentina on August 9, 2019.
- Trademark No. 002231009 (figurative) in class 41, registered in the European Union on July 10, 2020.
- Trademark No. 016942682, in classes 9, 28, 35, 38, 41, 42, and 43, registered in the European Union on November 30, 2017.

The disputed domain name was registered on June 13, 2023. It resolves to a website which provides information about the Complainant's online casino and has links that redirects the Internet users to the Complainant's website.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant was incorporated on April 22, 2016.

The Complainant contends that it has obtained, through its CODERE trademarks, a great recognition in the private gaming industry.

The disputed domain name incorporates the term "codere", identical to the trademark CODERE.

The Respondent does not have any trademark rights for the term "codere" and it is not known in trade by this expression.

The Respondent has attempted to attract, for commercial gain, Internet users to its websites by creating likelihood of confusion with the Complainant's trademark. The likelihood of confusion is increased by the content of its website, as the figurative elements of the Complainant's trademarks are used, and the subject matter of the website is identical to the services and products covered by the trademarks owned by the Complainant (gambling and casino games).

The disputed domain name has been registered in bad faith by the Respondent.

##### **B. Respondent**

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

## 6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; (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. Considering these requirements, the Panel rules as follows.

### A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant has provided evidence of its rights in the trademark CODERE, on the basis of its multiple trademark registrations, namely, in Argentina and the European Union. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview on WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), Section 1.2.1). The mere addition of the geographic term "ar", acronym of the name of a country, Argentina, and a hyphen, does not prevent a finding of confusing similarity with the Complainant's marks. As noted in the [WIPO Overview 3.0](#), Section 1.8: "[w]here the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements."

Similarly, the generic Top-Level Domain, ".com", is viewed as a standard registration requirement and as such is disregarded for the purpose of determining whether a domain name is identical or confusingly similar to a trademark (see also [WIPO Overview 3.0](#), Section 1.11.1).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark in which the Complainant has rights, meaning that the Complainant has satisfied the requirement under paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must prove that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant bears the burden of proof in establishing this requirement. In view of the difficulties inherent in proving a negative and because the relevant information is mainly in the possession of the Respondent, it is enough for the Complainant to establish a prima facie case which, if not rebutted by sufficient evidence from the Respondent, will lead to this ground being set forth. Refraining from submitting any Response, the Respondent has brought to the Panel's attention no circumstances from which the Panel could infer that the Respondent has rights to or legitimate interests in the disputed domain name.

The Panel will now examine the Complainant's arguments regarding the absence of rights or legitimate interests of the Respondent in connection with the disputed domain name. The Complainant claims that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant's trademarks in a domain name or in any other manner. Furthermore, the disputed domain name directs to a commercial website that allegedly offers products and services related to gambling and casino games, without any disclaimer as to the relation with or authorization of the Complainant, exacerbating the user confusion as to the website's affiliation to the Complainant. Such use for deliberately attracting Internet users to its website in the mistaken belief that it is a website of the Complainant, or otherwise linked to or authorized by the Complainant, supports a finding that the Respondent lacks rights to or legitimate interests in the disputed domain name.

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b). The Panel finds the Respondent has no rights or legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

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

Paragraph 4(b) of the Policy states that any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration and use of a disputed domain name in bad faith: (i) circumstances indicating that the respondent registered or acquired the domain name primarily for the purpose of selling, renting or otherwise transferring the domain name registration to the complainant (the owner of the trademark or service mark) or to a competitor of that complainant, for valuable consideration in excess of documented out-of-pocket costs directly related to the domain name; (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; (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 its website or location.

In the Panel's view, a finding of bad faith may be made where the Respondent "knew or should have known" of the registration and/or use of the trademark prior to registering the disputed domain name. In this case, the Complainant submits that at the date of registration of the disputed domain name the Respondent would have had constructive, if not actual, knowledge of the Complainant's mark CODERE. The Panel's finding is reinforced given the construction of the disputed domain name, which combines the CODERE mark with the term "ar" that is the acronym of the name of a country, Argentina, and a hyphen, as well as the fact that the disputed domain name directed to the a website that allegedly offers the Complainant's trademarked services as well as a content related to gambling and casino games. The Panel is satisfied that by directing the disputed domain name to a commercial website allegedly offering the Complainant's goods and services, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website (see Section 3.1.3 of the [WIPO Overview 3.0](#)). Under paragraph 4(b)(iv) of the Policy, this circumstance shall be evidence of the registration and use of a domain name in bad faith.

Having considered the Complainant's submissions and in the absence of a Response, the Panel accepts the Complainant's submission that on the evidence there is no plausible circumstance under which the Respondent could legitimately register or use the disputed domain name.

Consequently, the Panel finds that the disputed domain name was registered and used by the Respondent in bad faith within 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 disputed domain name <codere-ar.com> be transferred to the Complainant.

*/Daniel Peña/*

**Daniel Peña**

Sole Panelist

Date: March 13, 2024