

## **ADMINISTRATIVE PANEL DECISION**

Ninja Global Ltd. v. Mysar Mykhailo  
Case No. D2024-0260

### **1. The Parties**

The Complainant is Ninja Global Ltd., Malta, represented by Abion AB, Sweden.

The Respondent is Mysar Mykhailo, Ukraine.

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

The disputed domain name <ninjacasino.top> is registered with Nicenic International Group Co., Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 22, 2024. On January 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 22, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 23, 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 24, 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 February 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 28, 2024.

The Center appointed John Swinson as the sole panelist in this matter on March 4, 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. The Respondent sent an email to the Center on March 13, 2024, discussed in Sections 5B and 6B below.

#### 4. Factual Background

The Complainant is a gaming and casino company based in Malta.

The Complainant owns several registered trademarks for or relating to NINJACASINO, including European Union trademark registration number 017754516 for NINJA CASINO and device that was registered on May 14, 2018.

The disputed domain name was registered on April 25, 2023.

At the time the Complainant was filed, the disputed domain name resolved to a website titled “Ninja Casino” that seems to be promoting casino bonus offers. (The website was not in English, and no translation or summary was provided by the Complainant of the screenshot of this website which was an annexure to the Complaint.)

At the present time, the disputed domain name diverts to an online casino website in Finnish.

The Respondent did not file a formal Response, so little information is known about the Respondent. According to the Registrar’s records, the Respondent has an address in a small village in the western part of Ukraine.

The Complainant’s representative sent a cease-and-desist letter to the Respondent on May 24, 2023. No response was received by the Complainant to this correspondence.

A person with the same name as the Respondent has been a named respondent in approximately ten prior decisions under the Policy, including for example *Dreambox Games OÜ v. Mysar Mykhailo*, WIPO Case No. [D2023-2909](#) and *Optibet, SIA v. Mysar Mykhailo*, WIPO Case No. [D2023-5093](#). In these prior decisions, the Respondent was unsuccessful. The prior cases all appear to relate to casinos or gambling.

#### 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 is trying to take advantage of the Complainant’s NINJA CASINO trademark to draw traffic to the Respondent’s website. Therefore, the Complainant submits that the disputed domain name has been registered to commercially profit from the likelihood of confusion between the Complainant’s trademark and the disputed domain name.

##### B. Respondent

The Respondent did not formally reply to the Complainant’s contentions.

On March 13, 2024, in response to an email from the Center notifying the Panel appointment, a person (who does not have the same name as the Respondent, but the same email address of the Respondent confirmed by the Registrar) emailed the Center as follows:

“We would like to inform you that we no longer utilize or have any association with the mentioned domain <ninja-casino.top>. It is not part of our current operations, and we have ceased to use it for any purposes. Please consider this communication as our official notice that we neither contest nor object to the proceedings related to the domain in question. We appreciate your attention to this matter and thank you for keeping us informed throughout the process.”

## 6. Discussion and Findings

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may affect case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

In view of the email communication sent from the registrant's email address, the Panel considers that the Complaint was successfully notified to the Respondent.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and decides that the administrative proceeding should continue (for a similar procedural decision, see *Netbet Entreprises Ltd v. Privacy Service provided by Withheld for Privacy ehf / Vladimir Vladimir, Crowd inc*, WIPO Case No. [D2022-1420](#)).

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

(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 onus of proving these elements is on 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. 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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 Respondent states that the Respondent is no longer using the disputed domain name and that "we neither contest nor object to the proceedings related to the domain in question." (In the email to the Center of March 13, 2024, the Respondent refers to the domain name <ninja-casino.top> not the disputed domain name. The domain name <ninja-casino.top>, which currently diverts to <icecasino-no.top>, is the subject of a pending disputed under the Policy, namely [D2024-0577](#). In this regard, the Panel notes that the disputed domain name is currently redirecting to a website related to gambling. However, the reference line on the email from the Respondent refers to the disputed domain name.). Irrespective of the fact that the Respondent's communication seems to be nominally referring to a domain name in a different proceeding, the Panel notes that according to the Complainant's evidence the disputed domain name resolved to a website titled "Ninja Casino" that promoted casino bonus offers, and such use does not give rise to rights or legitimate interests in the disputed domain name.

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 Respondent used and continues to use the disputed domain name for websites promoting casino services in competition with the Complainant or to redirect the disputed domain name to such websites.

Accordingly, the Panel finds that paragraph 4(b)(iv) of the Policy applies in the present case.

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 <ninjacasino.top> be transferred to the Complainant.

*/John Swinson/*

**John Swinson**

Sole Panelist

Date: March 18, 2024