

ADMINISTRATIVE PANEL DECISION

Push Gaming Product Limited v. DOMAIN ADMINISTRATOR, Buy this domain on Dan.com

Case No. D2024-0851

1. The Parties

The Complainant is Push Gaming Product Limited, Malta, represented by Abion AB, Sweden.

The Respondent is DOMAIN ADMINISTRATOR, Buy this domain on Dan.com, Cayman Islands, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <razorways.com> (“Domain Name”) is registered with Global Domain Group LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 27, 2024. On February 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 27, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 5, 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 amended Complaint on March 8, 2024.

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 March 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 3, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on April 17, 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 game development studio that specializes in creating games for online and mobile casinos. It won the GamblingNews silverware in the category for Most Watched & Most Streamed Slot Award for May 2023. The Complainant holds numerous trademark registrations for “RAZOR WAYS”, including the European Union Trademark Registration No. 018912705 “RAZOR WAYS” (word), filed on August 10, 2023 and registered on December 12, 2023 for goods and services in international classes 9, 41 and 42.

The Domain Name was registered on August 10, 2023, the exact day of the filing of the Complainant’s trademark and is being offered for sale at “dan.com” for the amount of USD 2,588.

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.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which the Complainant must satisfy with respect to the Domain Name:

(i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) the Domain Name has been registered and is 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 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 generic Top-Level Domain (“gTLD”) “.com” is disregarded in the case, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#), see also [WIPO Overview 3.0](#), section 1.11.1).

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 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 Domain Name such as those enumerated in the Policy or otherwise.

No other evidence on any preparation to activate a website under the Domain Name or otherwise use it has been produced.

The Respondent therefore did not demonstrate any prior to the notice of the dispute use of the Domain Name or a trademark corresponding to the Domain Name in connection with a bona fide offering of goods or services.

Furthermore, the Respondent has not claimed or demonstrated that he is known as Razor Ways.

On the contrary, the Domain Name leads to an inactive website, where it is being offered for sale for an amount that seemingly exceeds out-of-pocket expenses and there is no reasonable explanation as to the registration and holding of the Domain Name that could lead the Panel to a conclusion different to the Respondent targeting the Complainant through the Domain Name. The Panel also notes the composition of the Domain Name which reproduces the Complainant’s mark in its entirety.

The Panel finds that these circumstances do not confer upon the Respondent any rights or legitimate interests in respect of the 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.

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. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name 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 Domain Name does not prevent a finding of bad faith in the circumstances of this proceeding. Although UDRP 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.

Given that the Domain Name was offered for sale, it can in any case safely be inferred that the Respondent was perfectly aware of the rights and value attaching to the RAZOR WAYS trademark of the Complainant upon registration. Having reviewed the available record, the Panel notes the composition of the Domain Name, reproducing the Complainant's mark in its entirety, along with the fact that the Domain Name was registered on the same day as the filing of the Complainant's mark, while it is currently being sold for an amount that seemingly exceeds out-of-pocket expenses, 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. For the same reasons, the Panel finds that it is more likely than not that the Respondent meant to target the Complainant in bad faith and registered the Domain Name in anticipation of the Complainant's trademark rights. See [WIPO Overview 3.0](#), section 3.8, and *Adventia Pharma, S.L. v. Super Privacy Service LTD c/o Dynadot LLC / bilal bal*, WIPO Case No. [D2020-1592](#)

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 Domain Name, <razorways.com>, be transferred to the Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: May 1, 2024