

## ADMINISTRATIVE PANEL DECISION

Smein Hosting N.V. v. bas  
Case No. D2024-1611

### 1. The Parties

The Complainant is Smein Hosting N.V., Netherlands (Kingdom of the), represented by Sipara, United Kingdom.

The Respondent is bas, Afghanistan.

### 2. The Domain Name and Registrar

The disputed domain name <gamdom.link> is registered with NameSilo, LLC (the “Registrar”).

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 17, 2024. On April 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 17, 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 (NameSilo, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 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 amended Complaint on April 23, 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 April 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 14, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 17, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on May 23, 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 has been operating since 2017 and has a large number of users with over 17 million visitors worldwide in February 2024 and with over 2000 games covering sports betting, e-sports, and casino games.

The Complainant is owner of the European Union Trademark Registration No. 018563850 for the word mark GAMDOM registered since January 28, 2022 for various goods and services related to online gaming, gambling and/or betting.

The Complainant's social media channels have significant consumer engagement, e.g., it has 547,000 followers on Twitter; 14,000 followers on Facebook and 53,800 followers on Instagram.

The disputed domain name was registered on June 7, 2022, and has resolved to an online betting website that referenced the Complainant and its services, displayed its trademark and a close variation of its signature logo.

Additionally, the "Register" and "Download Gamdom app" links on the website at the disputed domain name provided redirection to the website of the Complainant's direct competitor.

Currently, the disputed domain name does not resolve to any active website.

#### **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 disputed domain name, which contains its GAMDOM trademark in its entirety is identical or highly similar to the mark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;
- the Respondent was aware of the Complainant's GAMDOM mark at registration of the disputed domain name and has acquired it in order to divert Internet traffic to its own as well as to a competing website by creating a likelihood of confusion with the Complainant's mark;
- the Respondent's conduct to use the disputed domain name to redirect consumers to competing online casino platforms is designed to disrupt the Complainant's business.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

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

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

## 6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the 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 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 GAMDOM mark is reproduced within the disputed domain name combined with the applicable Top Level Domain ("TLD ") ".link" in the disputed domain name which is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.11.1.

The Panel finds that 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 considers that the composition of the disputed domain name carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. The Respondent has failed to respond and disclose its relationship (or lack of thereof) with the Complainant on its website.

Actually, the Respondent was in fact impersonating the Complainant by using the disputed domain name to confuse Internet users presumably looking for the Complainant through directing them to its own online betting and gaming website which referenced the Complainant and its services and prominently and extensively displayed its trademark and a close variation of its signature logo. Panels have held that the use of a domain name for illegal activity – here impersonation / passing off - can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Respondent has also used the disputed domain name to offer links to a competing third-party website, which is a form of bait-and-switch selling calculated to mislead Internet users. Such activity is not regarded as a bona fide offering of goods and services and cannot confer rights or legitimate interests on the Respondent

The Panel finds that 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.

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

The Complainant's mark, which the Respondent incorporated in the disputed domain name is inherently distinctive for the services at issue that is for online betting and gaming and predates the registration of the disputed domain name.

The Respondent used the disputed domain name for its own online betting and gaming website which directly referenced the Complainant and its services and prominently and extensively displayed its trademark and a close variation of its signature logo. Thus, in view of the Panel the Respondent obviously had actual knowledge of the Complainant's business and trademark at the time of registration of the disputed domain name and had registered it in order to target the Complainant and its trademark through impersonation or false association, which is evidence of bad faith. [WIPO Overview 3.0](#), section 3.4.

The Respondent has also used the inherently misleading disputed domain name to direct Internet users to an impersonating website offering services in direct competition with those of the Complainant. Such conduct is illegitimate, and it amounts to attempting to divert customers from the Complainant and thus to disrupt its business. [WIPO Overview 3.0](#), sections 3.1.3 and 3.4.

As mentioned above, currently the disputed domain name does not resolve to any active website. However, this does not prevent a finding of bad faith when considering the totality of the circumstances. [WIPO Overview 3.0](#), section 3.3.

In this context, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the composition of the disputed domain name as mentioned above, the Respondent's failure to submit a response and explain the registration and use of the disputed domain name, and that any good faith use to which the inherently misleading disputed domain name may be put appears to be implausible. The Panel finds that in these circumstances the current passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <gamdom.link> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: June 4, 2024