

ADMINISTRATIVE PANEL DECISION

Ninja Global Ltd. v. Marc Lester Kasilag, sssgame
Case No. D2024-1720

1. The Parties

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

The Respondent is Marc Lester Kasilag, sssgame, Philippines.

2. The Domain Name and Registrar

The disputed domain name <ninjacasino1.online> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 24, 2024. On April 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 24, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 29, 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 the same date.

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 May 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 31, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on June 10, 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

According to information in the Complaint, the Complainant is a company incorporated in Malta, which is active within the casino and gambling industry.

The Complainant is the holder of, among others, the European Union trademark registrations No. 017754516 for NINJA CASINO (figurative), registered on May 14, 2018 in classes 9, 38, and 41 and No. 015743685 for NINJACASINO (word), registered on November 28, 2016 in classes 9, and 41.

The disputed domain name was registered on January 24, 2024 and it resolves to a website copying the look and feel of the Complainant's website at "www.ninjacasino.com" including the use of the Complainant's figurative trademark, and purportedly offering Return to Player (RTP) for playing online slot games.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for the transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name incorporates entirely the Complainant's registered trademark NINJACASINO, the only difference being the addition of the number "1" which is added to the trademark. The Complainant's trademark is clearly recognizable within the disputed domain name, therefore, the disputed domain name is confusingly similar to the trademarks of the Complainant.

As regards the second element, the Complainant argues that the Respondent does not have any rights to the trademarks of the Complainant, nor is the Respondent a licensee of the Complainant. The Complainant has not given the Respondent any permission to register a domain name or to use or present an offering of goods and services under the Complainant's trademarks. Moreover, there is no evidence showing that the Respondent has been commonly known by the disputed domain name or is making a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name resolves to a website which is a copycat version of the Complainant's official website. As such, the Respondent is merely seeking, and has sought, to exploit the trademark in which the Complainant has rights and create a commercial gain for itself on the Internet.

With respect to the third element, the Complainant argues that its trademarks were registered and used well before the Respondent registered the disputed domain name. This implies knowledge by the Respondent of the Complainant's trademarks and business. Also, the disputed domain name is confusingly similar to the Complainant's trademark. The Complainant sent a cease-and-desist letter to the Respondent on April 11, 2024, without any reply despite several reminders. The Complainant concludes that the disputed domain name has been registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

No response has been received from the Respondent in this case. Accordingly, the Panel considers it can proceed to determine the Complaint based on the statements and documents submitted by the Complainant as per paragraph 15(a) of the Rules. The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.2.

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.

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the NINJACASINO trademark 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 confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "1") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

In addition, the Panel finds that the addition of the generic Top-Level Domain ("gTLD") ".online" to the disputed domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

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 disputed domain name is used to resolve to an active website which copies the look and feel of the Complainant's website and purportedly offering RTP for playing online slot games. The website at the disputed domain name displays the NINJA CASINO trademark and logo of the Complainant and provides no disclaimer as to any lack of affiliation with the Complainant. This cannot amount in the Panel's view to a bona fide offering of goods or services within the meaning of paragraphs 4(c)(i) of the Policy or to a legitimate noncommercial or fair use of the disputed domain name as provided by article 4(c)(iii) of the Policy.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Also, there is no evidence that the Respondent is commonly known by the disputed domain name within the meaning of paragraph 4(c)(ii) of the Policy.

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.

The disputed domain name was registered years after the Complainant had obtained registration of its trademarks. The disputed domain name is confusingly similar with the Complainant's trademark. Moreover, the NINJA CASINO trademark and logo of the Complainant are displayed on the website at the disputed domain name where the Respondent copies the look and feel of the Complainant's website. Under these circumstances, there can be little doubt that the Respondent was aware of the Complainant's trademarks and targeted these at the time of registration of the disputed domain name.

As regards the use of the disputed domain name, the Panel finds that, according to the un rebutted evidence submitted by the Complainant, the disputed domain name resolves to website copying the look and feel of the Complainant's website, displaying the NINJA CASINO trademark and logo of the Complainant, and purportedly offering RTP for playing online slot games. This amounts to use in bad faith under the terms of paragraph 4(b)(iv) of the Policy. Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Furthermore, the Respondent has not replied to the Complainant's cease and desist letter or to the contentions in these proceedings and used a privacy service when registering the disputed domain name. These circumstances are further indications of bad faith. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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 <ninjacasino1.online> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: June 24, 2024