

ADMINISTRATIVE PANEL DECISION

Elec Games Ltd. v. Nikita KOLESNIKOV

Case No. D2024-1987

1. The Parties

The Complainant is Elec Games Ltd., Malta, represented by Abion AB, Sweden.

The Respondent is Nikita KOLESNIKOV, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <boost-casino.net> (the “Domain Name”) is registered with NETIM SARL (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 13, 2024. On May 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On May 17, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 21, 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 May 21, 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 May 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 18, 2024.

The Center appointed Gregor Vos as the sole panelist in this matter on June 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 company active in the field of the development and distribution of innovative electronic gaming experiences.

The Complainant is the owner of inter alia European Union Trade Mark registration with No. 017754681 for the mark BOOST CASINO, registered on May 18, 2018 (the “Trademark”).

The Domain Name was registered on February 5, 2024, and at the time of filing the Complaint resolved to Registrar parking page.

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 Domain Name.

Notably, the Complainant first contends that the Domain Name is confusingly similar to the Trademark, with the mere addition of the generic Top-Level Domain <.net>.

Second, the Complainant states that the Respondent has no rights or legitimate interests in the Domain Name. The Respondent has never received authorization from the Complainant to use the Trademark in the Domain Name and is not commonly known by the Domain Name.

Finally, according to the Complainant, the Respondent was aware of the Trademark when registering the Domain Name and is using the Domain Name to attract traffic to the website to which the Domain Name would resolve.

B. Respondent

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

6. Discussion and Findings

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 Trademark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the Trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other elements, here the addition of a hyphen, may bear on assessment of the second and third elements, the Panel finds the addition of such element does not prevent a finding of confusing similarity between the Domain Name and the Trademark for the purposes of the Policy.

[WIPO Overview 3.0](#), section 1.8.

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.

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. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the composition of the Domain Name which includes the Trademark in its entirety with the mere addition of a hyphen and the lack of any rights or legitimate interest on the part of the Respondent and finds that in the circumstances of this case the passive holding of the 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 Domain Name <boost-casino.net> be transferred to the Complainant.

/Gregor Vos/

Gregor Vos

Sole Panelist

Date: July 16, 2024