

ADMINISTRATIVE PANEL DECISION

Elec Games Ltd. v. Leonardo Wright
Case No. D2024-2031

1. The Parties

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

The Respondent is Leonardo Wright, United States of America.

2. The Domain Name and Registrar

The disputed domain name <big-boost-casino.online> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 15, 2024. On May 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 16, 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 (N/A) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 17, 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 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 11, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 12, 2024.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on June 21, 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 Malta based company specialized in the development and distribution of gaming experiences.

The Complainant is the owner of several trademark registrations, including:

Trademark	Registration No.	Jurisdiction	Date of Registration	Goods or Services
BOOST CASINO	017754681	European Union	May 18, 2018	Classes 9, 38, and 41
BOOST CASINO	UK00917754681	United Kingdom	May 18, 2018	Classes 9, 38, and 41
BOOST CASINO	201801536	Norway	September 30, 2022	Class 41

According to the Panel's independent search, the Complainant, via its affiliate, operates one of its online casino and gaming websites under the domain name <boostcasino.com>.

The disputed domain name was registered on March 11, 2024. At the moment of writing of this decision, the disputed domain name resolves to a website which contains the following text "24 hour support at Big Boost Casino [...] Big Boost Casino [...] casino customer service is available 24/7 via online chat. The Big Boost Casino website interface is available in English, Spanish, German, Russian, Polish, Finnish, Portuguese, Romanian, Hungarian and French. The operator of Big Boost Casino online casino is the company BR ivio Limited, registered in Cyprus, no. HE315596. All gaming services are licensed by Invicta Networks NV, License 8048/JAZ2025-009". Said website also displays two images of casinos. It also displays a menu with the following options: "Site, Login, Download, Game, Bets, India, Casino, Slots, Club, Bonus, Bet, Live". These options constitute hyperlinks that lead to the same webpage (and thus display the abovementioned text and images). According to the Complainant's evidence, the disputed domain name resolved to the same website at the time of filing of the Complaint.

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 the following:

I. Identical or Confusingly Similar

That the disputed domain name incorporates the Complainant's BOOST CASINO trademarks entirely.

That the Complainant's BOOST CASINO trademarks were registered well before the date of registration of the disputed domain name.

That the Complainant's BOOST CASINO trademarks are clearly recognizable within the disputed domain name, and that previous panels have asserted that the disputed domain names identical to third parties' trademarks create a high risk of association (citing *CANAL + FRANCE v. Franck Letourneau*, WIPO Case No. [DTV2010-0012](#); and *Britannia Building Society v. Britannia Fraud Prevention*, WIPO Case No. [D2001-0505](#)). That, therefore, the disputed domain name is confusingly similar to the Complainant's BOOST CASINO trademarks.

That the use of the generic Top-Level Domain (“gTLD”) “.online” in the disputed domain name contributes to such risk of confusion since the Complainant only offers its goods and services online, and since said gTLD may be related to the provision of online gaming services.

II. Rights or Legitimate Interests

That the Respondent does not have any right to the Complainant’s BOOST CASINO trademarks and that the Complainant did not give the Respondent any kind of permission to use the Complainant’s BOOST CASINO trademarks in the disputed domain name, or to offer goods and services through the website to which the disputed domain name resolves using the Complainant’s BOOST CASINO trademarks.

That the website to which the disputed domain name resolves does not contain any evidence to establish that the disputed domain name is being used for any activity or business related to “boostcasino”, and that there is no evidence to infer that the Respondent has been known by the disputed domain name or that the Respondent is using the disputed domain name in a legitimate noncommercial or fair use.

That the Respondent’s use of the disputed domain name strongly suggests that it was registered with the Complainant’s BOOST CASINO trademarks in mind, with the intention of commercially profiting from misleading the Complainant’s consumers.

That the disputed domain name resolves to an active website that copies the Complainant’s look and feel.

III. Registered and Used in Bad Faith

That the fact that the Complainant’s BOOST CASINO trademarks were registered and had been used before the date of registration of the disputed domain name makes it obvious that the Respondent was aware of the Complainant’s BOOST CASINO trademarks and business when registering the disputed domain name.

That the disputed domain name is confusingly similar to the Complainant’s BOOST CASINO trademarks because the Respondent is trying to take advantage of said trademarks to draw traffic to the disputed domain name, commercially profiting from the likelihood of confusion between such trademarks and the disputed domain name.

That the Complainant sent a cease-and-desist letter to the Respondent on April 12, 2024, which was not replied in any way by the Respondent.

B. Respondent

The Respondent did not reply to the Complainant’s contentions. Therefore, the Respondent is in default.

6. Discussion and Findings

Paragraph 4(a) of the Policy sets out the three requirements that the Complainant must prove in order to successfully request remedies:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark to which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in connection to the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Given the Respondent’s default and therefore, failure to specifically address the case merits as they relate to the three UDRP elements, the Panel may decide this proceeding based on the Complainant’s undisputed

factual allegations under paragraphs 5(f), 14(a), and 15(a) of the Rules (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#); *Encyclopaedia Britannica, Inc. v. null John Zuccarini, Country Walk*, WIPO Case No. [D2002-0487](#); see also WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3).

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 to its BOOST CASINO trademarks for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds that the entirety of the Complainant's BOOST CASINO trademarks are reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's BOOST CASINO trademarks for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.7. The gTLD ".online" can be disregarded under the first element.

Although the addition of the term "big" at the beginning of the disputed domain name may bear on assessment of the second and third elements, the Panel finds the addition of such term along with the use of hyphens between the terms "big", "boost", and "casino" in the disputed domain name do not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.8: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element."

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. See [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, on the other hand, has failed to provide evidence of bona fide or legitimate noncommercial or fair use of the disputed domain name. No evidence was provided either in connection with the Respondent being commonly known by the disputed domain name.

The Panel does not find that the website to which the disputed domain name resolves closely copies the look and feel of the Complainant's website as asserted by the Complainant. However, the Panel notes that said website does display the Complainant's trademarks BOOST CASINO and purports to offer same services.

Therefore, 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.

The Complainant has ascertained its rights over its BOOST CASINO trademarks. The dates of registration of the Complainant's BOOST CASINO trademarks precede the date of registration of the disputed domain name.

The facts comprised in the case docket show that the Respondent has intentionally used the disputed domain name to attract, for commercial gain, the Complainant's consumers to the website to which the disputed domain name resolves, by creating the impression among Internet users that said website is related to, associated with, or endorsed by the Complainant. The Panel notes that the Respondent has intended to impersonate the Complainant through its use of the Complainant's trademark on the website at the disputed domain name purportedly offering same services. The Respondent's conduct constitutes bad faith under paragraph 4(b)(iv) of the Policy (see section 3.1.4 of the [WIPO Overview 3.0](#); see also *trivago GmbH v. Whois Agent, Whois Privacy Protection Service, Inc. / Alberto Lopez Fernandez, Alberto Lopez*, WIPO Case No. [D2014-0365](#); and *Jupiter Investment Management Group Limited v. N/A, Robert Johnson*, WIPO Case No. [D2010-0260](#)). The fact that the Respondent has made available images of casinos on the website to which the disputed domain name resolves, reinforces the risk of confusion.

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

Based on the available record, the Panel finds that the Complainant has successfully 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 <big-boost-casino.online> be transferred to the Complainant.

/Kiyoshi Tsuru/

Kiyoshi Tsuru

Sole Panelist

Date: July 5, 2024.