

## **ADMINISTRATIVE PANEL DECISION**

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v.  
Mysar Mykhailo, and Mykhailo Mysar  
Case No. D2024-2206

### **1. The Parties**

The Complainant is Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco, Monaco, represented by De Gaulle Fleurance & Associés, France.

The Respondents are Mykhailo Mysar, United States of America, and Mykhailo Mysar, Ukraine.

### **2. The Domain Names and Registrars**

The disputed domain name <monacocasino.top> is registered with URL Solutions, Inc.

The disputed domain names <casino-monacobet.click>, <casinomonacobet.click>, <monacobet-casino.click> and <monacobetcasino.click> are registered with OVH (URL Solutions, Inc and OVH are collectively referred to as the “Registrars”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 29, 2024. On June 12, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On the same day, the Registrars transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 June 19, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amended Complaint on June 24, 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 June 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 24, 2024. On August 7, 2024, the Respondent sent a spontaneous communication to the Center, indicating that the disputed domain names were no longer active.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on August 6, 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. Further Procedural Considerations**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition.

Since the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. The Panel notes that the courier was not able to deliver the written notice to the Respondent's address in Ukraine, but the Complaint was delivered to the Respondent's email address provided by the Registrar.

The Panel also notes that the Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer or cancel the disputed domain name shall be referred to the jurisdiction of the Courts of the location of the principal office of the concerned registrar. In this case, the principal office of the Registrar OVH sas is in France, and the principal office of the Registrar URL Solutions Inc. is in Panama.

It is moreover noted that, for the reasons which are set out later in this Decision, the Panel has no doubt whatsoever that the Respondent registered and has used the disputed domain name in bad faith and with the intention of unfairly targeting the Complainant's goodwill in its trademark and misleading consumers.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision.

#### **5. Factual Background**

The Complainant was founded on April 6, 1863, by a Sovereign Decree granting to it a monopoly for the provision of casino gaming services in the Principality of Monaco. It has been and remain the sole corporation authorized to operate casinos in the Principality of Monaco since then. The Sovereign Decree was most recently renewed on March 13, 2003.

The Complainant owns the following trademarks: the word trademark n° 96.17407 CASINO DE MONTE-CARLO that was registered in classes 3, 7, 9, 12, 14, 16, 18, 28, 34, 35, 38, 39, 41, 42, 43, and 45 with a priority date as of August 13, 1996, and with a registration date as of October 30, 1996 as well as the international trademark n° 793812 CASINO DE MONACO that was registered on December 19, 2002 in classes 9, 16, 28, and 41.

On April 25, 2023, the Respondent registered the disputed domain name <monacocasino.top>.

On October 20, 2023, the Respondent registered all others disputed domain names.

The disputed domain names were registered with identical name servers, namely “moura.ns.cloudflare.com” and “zariyah.ns.cloudflare.com”. They are all linked to websites displaying the same content, offering gaming services, claiming affiliations to several recognized gambling platforms and stating in its FAQ that it “belongs to Société des Bains de Mer (SBM), which also owns the luxury casino in Monaco”.

## **6. 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 names.

Notably, the Complainant contends that the disputed domain names are confusingly similar to its trademark CASINO DE MONACO as it entirely incorporates the terms “casino” and “Monaco” and that the addition of a term like “bet” in a majority of them does not prevent a finding of similarity as it directly refers to the field of gambling, which is the Complainant’s core activity.

The Complainant then affirms that the Respondent has no rights or legitimate interests in the disputed domain names as the Respondent does not hold any trademark, that it has never been authorized or licensed and trademark right by the Complainant, and that its activities cannot be considered as bona fide use of the disputed domain names.

Finally, the Complainant is of the view that the disputed domain names have been registered and are being used in bad faith. Taking into account the worldwide reputation enjoyed by the Complainant in its trademarks, the Respondent was obviously aware of the Complainant’s trademarks when it chose to register the disputed domain names. The offering by the Respondent of gaming services is an obvious attempt to unduly benefit from the Complainant’s reputation and, as such, constitute a use in bad faith of the disputed domain names.

### **B. Respondent**

Apart from the informal email received from the Respondent, the Respondent did not reply to the Complainant’s contentions.

## **7. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to “[...] decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

- (i) the disputed domain name is identical or confusingly similar to a trademark or a 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. Consolidation: Multiple Respondents**

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names are all registered under the same name, with an identical address (other than the country), phone number and email address. All these factors clearly lead the Panel to consider that all disputed domain names have been registered and are being held by one and the same entity.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

#### **B. 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain names as both the terms "casino" and "Monaco" are entirely incorporated in each of the disputed domain names. The addition of the term "bet" in a majority of the disputed domain names and the inversion of the terms "casino" and "monaco" in three of the disputed domain names does not prevent a finding of confusing similarity between the disputed domain names and the Complainant's mark. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds the first element of the Policy has been established.

### **C. 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 names. 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 names such as those enumerated in the Policy or otherwise.

Furthermore, the Panel notes the composition of the disputed domain names, which carries a risk of implied affiliation with the Complainant, [WIPO Overview 3.0](#), section 2.5.1, and that the disputed domain names used to resolve to a website with an identical content offering identical services to the Complainant’s ones. Panels have held that the use of a domain name for illegal activity, such as the provision of services identical to the Complainant’s ones by impersonating the Complainant’s identity, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The absence of any rights or legitimate interests in the disputed domain names is further highlighted by the Respondent’s spontaneous communication in which it informed the Center that the disputed domain names were no longer active. In doing so without rebutting any of the Complainant’s assertions, the Respondent made it clear that it had no further interest in the disputed domain names.

The Panel finds the second element of the Policy has been established.

### **D. 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.

In the present case, the Panel notes that the Respondent has developed a website related to the disputed domain names that is meant to lead the Internet users to believe that the website is affiliated to the Complainant. Taking into account the very strong reputation enjoyed by the Complainant’s trademark, there is no doubt that the Respondent was well aware of the Complainant’s trademark when it registered the disputed domain names and that, in doing so, the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s trademark.

Panels have held that the use of a domain name for illegal activity, in the present case the provision of services identical to the Complainant’s ones by impersonating the Complainant’s identity, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domains name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element of the Policy.

## 8. 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 names <casino-monacobet.click>, <casinomonacobet.click>, <monacobet-casino.click>, <monacobetcasino.click>, and <monacocasino.top> be transferred to the Complainant.

*/Philippe Gilliéron/*

**Philippe Gilliéron**

Sole Panelist

Date: August 20, 2024