

ADMINISTRATIVE PANEL DECISION

Push Gaming Product Limited v. Brooklake Group, Brooklake OU, Oskar Kallenbach, Brooklake OU
Case No. D2024-2242

1. The Parties

The Complainant is Push Gaming Product Limited, Malta, represented by Abion AB, Sweden.

The Respondent is Brooklake Group, Brooklake OU / Oskar Kallenbach, Brooklake OU, Estonia.

2. The Domain Names and Registrar

The disputed domain names <gigajars.com> and <jamminjars.com> are registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 7, 2024. On June 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 8, 2024, the Registrar 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 (Unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 12, 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 June 17, 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 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 11, 2024. The Response was filed with the Center on July 11, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on July 22, 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 game development company specialized in creating premium, mobile optimized HTML5 games for online and mobile casinos.

The Complainant has obtained over the years numerous accolades including the Gambling News silverware in the category for Most Watched & Most Streamed Slot Award for May 2023, in the Tier 2 Category for a second time this year, topping its previous first-time achievement in February.

The Complainant is the owner of several trademark registrations for JAMMIN JARS and GIGA JARS, including the following, as per trademark registration details submitted in Annex 2 to the Complaint:

- European Union trademark registration No. 017907832 for JAMMIN JARS (word mark), filed on May 29, 2018, and registered on September 27, 2018, in classes 9, 41 and 42;
- United Kingdom trademark registration No. UK00917907832 for JAMMIN JARS (word mark), filed on May 29, 2018, and registered on September 27, 2018, in classes 9, 41 and 42;
- United States of America trademark registration No. 6523712 for JAMMIN JARS (word mark), filed on September 22, 2020, and registered on October 19, 2021, in international classes 9 and 41;
- United Kingdom trademark registration No. UK00918166292 for GIGA JAR (word mark), filed on December 16, 2019, and registered on April 6, 2020, in classes 09, 41 and 42;
- United Kingdom trademark registration No. UK00003862075 for GIGA JAR (figurative mark), filed on December 22, 2022, and registered on March 24, 2023, in classes 9, 41 and 42;
- European Union trademark registration No. 018814799 for GIGA JAR (figurative mark), filed on December 22, 2022, and registered on May 9, 2023, in classes 09, 41 and 42;
- European Union trademark registration No. 018166292 for GIGA JAR (word mark), filed on December 16, 2019, and registered on April 6, 2020, in classes 9, 41 and 42.

The disputed domain names <jamminjars.com>, registered on February 25, 2019, and <gigajars.com>, registered on April 1, 2023, currently point to webpages displaying the indications: "Sorry, you have been blocked. You are unable to access jamminjars.com" and "Sorry, you have been blocked. You are unable to access gigajars.com". However, according to the screenshots submitted as Annexes 3 to the Complaint – which have not been contested by the Respondent -, prior to the present proceedings, both disputed domain names pointed to active websites clearly referencing to the Complainant, its trademarks and services, publishing images of the Complainant's games and website and promoting paid gaming services by providing links to other websites to play the JAMMIN JARS and GIGA JAR games.

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 names.

Notably, the Complainant contends that the disputed domain names <jamminjars.com> and <gigajars.com> are identical and confusingly similar to the trademarks JAMMIN JARS and GIGA JAR in which the Complainant has rights, since in the first case, the JAMMIN JARS trademark is reproduced in its entirety, whilst in the second case the GIGA JARS trademark is reproduced in its entirety with the sole addition of an “s” at the end of the mark.

With reference to rights or legitimate interests in respect of the disputed domain names, the Complainant states that the Respondent has in no way been licensed, authorized, endorsed or sponsored in any way, to register or use the disputed domain names incorporating the Complainant’s marks.

The Complainant also contends that the Respondent is not commonly known by the disputed domain names and submits that the Respondent deliberately used the Complainant’s marks, images and games to create a likelihood of confusion with the Complainant with the intent to exploit the Complainant’s trademarks for commercial gain.

With reference to the circumstances evidencing bad faith, the Complainant indicates that since its JAMMIN JARS and GIGA JAR trademarks long predate the registration of the disputed domain names, it is highly likely that the Respondent’s intention was to register the disputed domain names intentionally to take advantage of the Complainant’s reputation and goodwill.

The Complainant submits that considering the websites to which the disputed domain names initially resolved reproduced the Complainant’s trademarks and images taken from the Complainant’s website and clearly referenced to the Complainant’s JAMMIN JARS and GIGA JAR services, users would have been easily misled by such use of the disputed domain name. The Complainant concludes that the Respondent attempted to create a likelihood of confusion with the Complainant as to the source, sponsorship and affiliation of the websites.

The Complainant points out that both websites at the disputed domain names contained links to third-party websites such as Hazcasino and Mount Gold Casino, where users would have been able to play the JAMMIN JARS and GIGA JAR games of the Complainant. The Complainant submits that this created a further deceiving connection between the Complainant and the linked sites, whilst further disrupting consumers from the Complainant’s business.

Lastly, the Complainant informs the Panel that it sent a cease-and-desist letter to the email address listed on the Respondent’s websites, on May 23, 2024, without receiving any response.

B. Respondent

The Respondent states that it intends to renounce to the disputed domain names and wishes to transfer them to the Complainant.

6. Discussion and Findings

6.1 Consolidation of 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.

The Panel finds that the following elements demonstrate a common control of the disputed domain names:

- i) both disputed domain names contain the Complainant's registered marks JAMMIN JARS and GIGA JAR;
- ii) the website to which the disputed domain name <jamminjars.com> resolved contained an explicit hyperlink redirecting to the website to which <gigajars.com> resolved and vice versa;
- iii) the Registrant's organization, address and phone number indicated in the Registrar-provided registrant information is the same for both disputed domain names;
- iv) the disputed domain names have identical Name Server information;
- v) both disputed domain domains are registered with the same Registrar;
- vi) the Respondent indicated to be willing to transfer both disputed domain names to the Complainant.

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.

6.2. Substantive Issues

According to paragraph 15(a) of the Rules: "A Panel shall 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." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that 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 trademarks or service marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Indeed, the Complainant has provided evidence of ownership of valid trademark registrations for JAMMIN JARS and GIGA JAR.

The disputed domain name <jamminjars.com> entirely reproduces the Complainant's mark JAMMIN JARS with no alteration, with the mere addition of the generic Top-Level Domain (gTLD) ".com" which is commonly disregarded under the first element confusing similarity test (section 1.11 of the [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the disputed domain name <jamminjars.com> is identical to the Complainant's trademark JAMMIN JARS.

The disputed domain name <gigajars.com> reproduces the Complainant's trademark GIGA JAR with the sole addition of a single letter "s", which is not a distinguishing feature and may also be interpreted as a misspelling of the mark, and the gTLD ".com". Therefore, the Panel finds that the disputed domain name <gigajars.com> is confusingly similar to the Complainant's trademark GIGA JAR. [WIPO Overview 3.0](#), section 1.9.

Therefore, 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.

In the case at hand, the Complainant has made a prima facie case and the Respondent, which has responded to the Complaint indicating only its willingness to transfer the disputed domain names to the Complainant, has failed to raise any circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain names.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's trademarks.

Moreover, there is no element from which the Panel could infer a Respondent's right over the disputed domain names, or that the Respondent might be commonly known by the disputed domain names.

As mentioned above, prior to the present proceeding, the disputed domain names were pointed to websites featuring the Complainant's trademarks and images of the Complainant's JAMMIN JARS and GIGA JAR games and promoting paid gaming services, providing links to third-party websites where users could apparently play such games. Based on the screenshots of the websites submitted by the Complainant – which have not been challenged by the Respondent –, the Panel finds that the contents of the websites were apt to cause confusion amongst users as to their source or affiliation, also considering no clear disclaimer of non-affiliation with the Complainant was displayed on the websites.

In view of the above-described use of the disputed domain names, the Panel finds that the Respondent has not used the disputed domain names in connection with a bona fide offering of goods or services or a legitimate non-commercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

Furthermore, the disputed domain names, reproducing the Complainant's trademarks in their entirety (with the mere addition of a single letter "s" in the case of <gigajars.com>) are inherently misleading. Prior UDRP panels have found that domain names identical to a complainant's trademark carry a high risk of implied affiliation. Even where a domain name consists of a trademark plus an additional term, UDRP panels have

largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel notes that in light of i) the prior registration and use of the Complainant's trademarks JAMMIN JARS and GIGA JAR in connection with the Complainant's online games, ii) the identity and confusing similarity of the disputed domain names with the Complainant's trademarks, and iii) the circumstance that the disputed domain names were pointed, prior to the filing of the Complaint, to websites citing the Complainant and featuring the Complainant's trademarks as well as images of the Complainant's games, the Respondent clearly registered the disputed domain names having the Complainant's trademark in mind.

Additionally, the Panel notes that, in view of the use of the disputed domain names to divert users to the websites described above, featuring the Complainant's trademarks and images and promoting paid gaming services whilst failing to disclose the Respondent's lack of affiliation with the Complainant, the Respondent intentionally attempted to attract Internet users to its websites, for commercial gain, by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation or endorsement of its websites and the services promoted therein, according to paragraph 4(b)(iv) of the Policy.

At the time of the drafting of this Decision, the disputed domain names do not resolve to active websites. 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 disputed domain names, their prior use – uncontested by the Respondent –, and the implausibility of any good faith use to which the disputed domain names may be put and finds that in the circumstances of this case the passive holding of the disputed domain names does not prevent a finding of bad faith under the Policy.

Therefore, the Panel finds that the Complainant has also 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 names <gigajars.com> and <jamminjars.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: August 05, 2024