

## **ADMINISTRATIVE PANEL DECISION**

Glitnor Marketing Ltd v. Smith Maurice  
Case No. D2024-2249

### **1. The Parties**

The Complainant is Glitnor Marketing Ltd, Gibraltar, United Kingdom, represented by Abion GmbH, Switzerland.

The Respondent is Smith Maurice, Spain.

### **2. The Domain Name and Registrar**

The disputed domain name <happycasino-se.com> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 31, 2024. On June 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 5, 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 (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 5, 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 6, 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 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 3, 2024.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on July 9, 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

It results from the Complainant's undisputed allegations that it is a fast-growing iGaming company founded in 2018. It can count on more than 200 Team Members across Europe and North America and developed and commercialized HappyCasino, a mobile-first, Pay'n'Play casino specifically designed for the Swedish market.

The Complainant is the registered owner – among others – of the following trademarks for HAPPY CASINO:

- HAPPY CASINO (word), European Union Trade Mark ("EUTM") No. 018784770, registered on February 25, 2023, for goods and services in classes 9, 41, and 42
-  (figurative), EUTM No. 018624267, registered on April 22, 2022, for goods and services in classes 9, 41, and 42

The evidence provided proves that the disputed domain name was registered on May 3, 2024.

It further results from the Complainant's documented and undisputed allegations that – shortly after registration – the disputed domain name resolved to a website (1) under the title "Happy Casino - Try your luck with 50 free spins with no wagering requirements" (while also the Complainant offers 50 free spins), (2) further mentions referring to the Complainant, such as "Play and bet with Happy Casino", "HappyCasino offers a seamless gaming experience [...]" and "Bonuses and promotions at Happy Casino - Happy Casino is the perfect option for players [...]" and finally, (3) featuring the figurative sign displayed hereinafter:



Finally, the Complainant points out that it filed a takedown request before the Registrar on May 28, 2024, following which, on May 29, 2024, the Registrar confirmed the removal of the website. Accordingly, the website under the dispute domain name is now inactive.

#### 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 that:

(1) the disputed domain name is confusingly similar to the Complainant's trademark since it incorporates, in its second-level portion, the Complainant's registered trademark happy casino in its entirety, followed by a hyphen "-" and the relevant term "se", most likely a reference to the two-letter country code for "Sweden";

(2) the Respondent has no rights or legitimate interests in respect of the disputed domain name. According to the Complainant, the Respondent has not received authorization or license from the Complainant to use its trademark, nor is commonly known by the disputed domain name. Furthermore, the Complainant contends that that the nature of the disputed domain name carries a risk of implied affiliation. The activity described above does not confer rights or legitimate interests in the domain name under the Policy;

(3) the disputed domain name was registered and is being used in bad faith. The Respondent has initially used the disputed domain name for a website featuring signs confusingly similar to the Complainant's figurative trademark while providing several mentions referring to the Complainant and its happy casino-product. Accordingly, the Respondent had knowledge of the Complainant, its business, and trademark at the time of the registration of the disputed domain name and was using it in bad faith.

## **B. Respondent**

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

## **6. 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". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### **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 HAPPY CASINO mark is reproduced within the disputed domain name, combined with the element "-se", which is the two-letter country code for the country of Sweden. The Panel therefore finds the mark is recognizable 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, "-se", 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.

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 Panel notes that there is no evidence in the record showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the Panel notes that the nature of the disputed domain name carries a risk of implied affiliation, since the disputed domain name entirely incorporates the Complainant’s trademark HAPPY CASINO and that the trademark HAPPY CASINO is not a trademark that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant (see [WIPO Overview 3.0](#), at section 2.5.1).

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.

One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

In the present case, the Panel notes that – as results from the Complainant’s documented and undisputed allegations – the Respondent used the disputed domain name to resolve a website (1) under the title “Happy Casino - Try your luck with 50 free spins with no wagering requirements” (while also the Complainant offers 50 free spins), (2) further mentions referring to the Complainant, such as “Play and bet with Happy Casino”, “HappyCasino offers a seamless gaming experience [...]” and “Bonuses and promotions at Happy Casino - Happy Casino is the perfect option for players [...]” and finally, (3) featuring a figurative sign which the Panel considers highly similar to the Complainant’s registered prior figurative mark (EUTM No. 018624267) as displayed above under Section 4 of this Decision. For the Panel, it is therefore evident that the Respondent knew the Complainant’s mark and business under said mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant’s trademark when it registered the disputed domain name. This is underlined by the fact that the disputed domain name contains the Complainant’s trademark in its entirety combined with the two-letter code for Sweden, one of the Complainant’s main markets with its happy casino-product.

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

(i) the nature of the disputed domain name;

(ii) the content of the website to which the disputed domain name directed, displaying the Complainant's trademark and logo (or similar approximations thereof);

(iii) a clear absence of rights or legitimate interests coupled with no response for the Respondent's choice of the disputed domain name, and

(iv) the Respondent originally hiding his identity behind a privacy shield.

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 <happycasino-se.com> be transferred to the Complainant.

*/Tobias Malte Müller/*

**Tobias Malte Müller**

Sole Panelist

Date: July 24, 2024