

ADMINISTRATIVE PANEL DECISION

RootzLTD v. Fedorov Vladimir
Case No. D2024-2583

1. The Parties

The Complainant is RootzLTD, Malta, represented by Wilmark Oy, Finland.

The Respondent is Fedorov Vladimir, Kazakhstan.

2. The Domain Name and Registrar

The disputed domain name <wildzcasinocanada.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 25, 2024. On June 25, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 25, 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 Administrator, Privacy Guardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 4, 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 amendment to the Complaint on July 11, 2024.

The Center verified that the Complaint together with the amendment to the 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 July 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 13, 2024.

The Center appointed Dawn Osborne as the sole panelist in this matter on August 29, 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 an established gaming company operating on line casino services under the brand WILDZ in, inter alia, Canada.

It owns registered trade marks for the WILDZ word mark for casino services including;

- European Union Trade Mark registration No. 17589813 registered since April 25, 2018;
- International trade mark registration No. 1443415 registered since June 13, 2018; and
- Canadian trade mark registration No. 1089482 registered since December 10, 2020.

The disputed domain name was registered on December 28, 2023, and offered competing gambling services including pages purporting to be the Complainant's Canadian web site.

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:

The Complainant is the owner of the mark WILDZ, registered, inter alia, in the EU and Canada for casino services since 2018 and 2020 respectively.

The disputed domain name registered in 2023 is confusingly similar to the Complainant's mark containing it in its entirety and adding only the word "casino", the geographical term "Canada" and the gTLD ".com" which do not prevent this confusing similarity.

The Respondent does not have any rights or legitimate interests in and is not commonly known by the disputed domain name, and is not authorised by the Complainant.

The disputed domain name has been pointed to a site offering competing casino services including the use of pages mimicking the Complainant's Canadian web site. This is confusing and, therefore, not a bona fide offering of goods or services. It is commercial and so is not legitimate non commercial or fair use. It is registration and use in bad faith causing confusion amongst Internet users for commercial gain in actual knowledge of the Complainant's rights.

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 mark is reproduced 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, "casino" and "Canada" may bear on assessment of the second and third elements, the Panel finds the addition of such terms 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 Respondent is not commonly known by the disputed domain name and is not authorised by the Complainant.

The use of the disputed domain name is commercial and therefore is not non commercial legitimate or fair use withing the meaning of the Policy.

Panels have held that the use of a domain name for illegal activity, here impersonation/passing off, can never confer rights or legitimate interests on a respondent and is not a bona fide offering of goods or services. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the Respondent has used the disputed domain name for competing casino services including material copied from the Complainant's Canadian web site in a deceptive and confusing manner. The copying of material from the Complainant's Canadian web site proves that the Respondent was aware of the Complainant, its rights, business and services.

Panels have held that the use of a domain name for illegal activity, here impersonation/passing off 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 domain name constitutes bad faith under the Policy intentionally attempting to attract for commercial gain Internet users by creating a likelihood of confusion with the Complainant's mark and disrupting the Complainant's business.

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 <wildzcasinocanada.com> be transferred to the Complainant.

/Dawn Osborne/

Dawn Osborne

Sole Panelist

Date: September 5, 2024