

ADMINISTRATIVE PANEL DECISION

William Grant & Sons Limited v. hebat99 Hosting
Case No. D2024-3067

1. The Parties

The Complainant is William Grant & Sons Limited, United Kingdom (“UK”), represented by Demys Limited, UK.

The Respondent is hebat99 Hosting, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <glenfiddich.site> (the “Domain Name”) 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 July 26, 2024. On July 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 29, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy Protect, LLC, PrivacyProtect.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 29, 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 August 1, 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 August 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 27, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on September 2, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant distills, markets and distributes Scotch whisky and other spirits. The Complainant's core brands include GLENFIDDICH, a single malt Scotch whisky. It is one of the world best-selling single malt whisky with sales in excess of a million cases a year. It has received several awards.

The Complainant owns trademark registrations for GLENFIDDICH, such as UK trademark registration number 809941 (registered on August 26, 1960) and European Union trademark registration number 192575 (registered on October 29, 1998). The Complainant has operated a website at "www.glenfiddich.com" since August 1995. The Complainant has in several cases defended its registered rights under the UDRP.

The Domain Name appears to be registered on August 17, 2023. The Complainant documents that the Domain Name has resolved to a website promoting gambling providers of slot, poker and casino games in Indonesia. The website has a download button that when clicked by Internet users starts the download of an .APK file. The Domain Name has been configured for email communication. At the time of drafting the Decision, the Domain Name resolved to an error website.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Name is identical to the Complainant's trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent has not been commonly known by the Domain Name. The Complainant has found no evidence that the Respondent owns any trademarks incorporating the term GLENFIDDICH. The Complainant has not authorized the Respondent to register or use the Domain Name. The fact that the Domain Name is identical to the Complainant's trademark makes the Complainant contend that there is no conceivable use to which the Respondent may put the Domain Name, that would confer any legitimate interest upon the Respondent. The use of the Domain Name to distribute potential malware cannot confer rights or legitimate interests on the Respondent.

The Complainant argues that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark. The Respondent's use of the disputed domain name is disrupting the Complainant's business and takes unfair advantage of its rights and, as such, cannot be considered genuine bona fide use.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the Domain Name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark GLENFIDDICH. The Domain Name is identical to the Complainant's trademark. For the purpose of assessing the confusing similarity under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level-Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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. While 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 often impossible 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. If the respondent fails to come forward with relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant’s showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name. Based on the record, the Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent’s use of, or demonstrable preparations to use, the Domain Name in connection with a bona fide offering of goods or services. Finally, it is inconceivable that the Respondent may put the Domain Name into any good faith use as it is identical to the Complainant’s trademark.

Based on the available record, 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 fact that the Domain Name is identical to the Complainant’s prior registered trademark makes it probable that the Respondent was aware of the Complainant when the Respondent registered the Domain Name. Based on the case file, it appears that the Respondent is intentionally creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement. The use of the Domain Name, as described above, is clear evidence of bad faith.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. The third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders the Domain Name <glenfiddich.site> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: September 9, 2024