

ADMINISTRATIVE PANEL DECISION

Elec Games C1 Limited v. andika lesmana
Case No. D2024-3401

1. The Parties

The Complainant is Elec Games C1 Limited, Malta, represented by Abion AB, Sweden.

The Respondent is andika lesmana, Indonesia.

2. The Domain Names and Registrar

The disputed domain names <netticasinobonus.info> and <nettikasinobonus.com> are registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on August 20, 2024. On August 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On August 20, 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 (Redacted for Privacy, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 21, 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 August 21, 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 August 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 19, 2024.


The Center appointed Fabrice Bircker as the sole panelist in this matter on September 27, 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 company incorporated in Malta which is active in the field of online gambling.

It operates an online casino under the NETTICASINO brand.

The Complainant's activities are notably protected through the following trademarks registrations:

 , European Union trademark registration No. 10997666 filed on June 27, 2012, registered on March 26, 2013, and protecting products and services of classes 9, 41, and 42; and

NETTICASINO, European Union trademark registration No. 10997054 filed on June 27, 2012, registered on December 26, 2013, and protecting products and services of classes 9, 41, and 42.

The Complainant's online casino is available through the <netticasino.com> domain name which was registered on February 9, 2004.

The disputed domain names, <nettikasinos.com> and <netticasinobonus.info>, were registered respectively on April 26, 2024, and on May 23, 2024.

They both resolve to the same website, entitled "Indovip", and which proposes gambling services.

Very little is known about the Respondent excepting that he is reportedly located in Indonesia as per the information disclosed by the Registrar.

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 are confusingly similar to its NETTICASINO trademark, because the trademark is recognizable within them.

Besides, the Complainant submits that the Respondent has no rights or legitimate interests in respect with the disputed domain names, in substance because:

- the disputed domain names were registered many years after the first registrations of the Complainant's trademarks;
- the Complainant has not licensed or authorized the Respondent to register or use the disputed domain names, nor is the Respondent affiliated to the Complainant in any form;
- there is no evidence that the Respondent is known by the disputed domain names or owns any corresponding registered trademark;
- the structure of the disputed domain names, in as far they incorporate the Complainant's NETTICASINO trademark, reflects the Respondent's intention to create an association, and a subsequent likelihood of confusion, with the Complainant; and
- the disputed domain names resolve to a competitor's website.

Then, the Complainant contends that the disputed domain names have been registered in bad faith notably because:

- the Respondent registered them more than 10 years after the first registration of the Complainant's trademark;
- the Respondent used a privacy service provider to conceal his identity and contact details; and
- the structure of the disputed domain names shows that the Respondent registered them having the Complainant's trademark in mind.

Finally, the Complainant argues that the disputed domain names are being used in bad faith, notably because:

- they resolve to a competing website that offers online casino services and therefore are used to create a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website; and
- the Complainant sent a cease-and-desist letter to the Respondent, to which the Respondent did not reply.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, in order to obtain a transfer of the disputed domain names, the Complainant must establish each of the following three elements:

- i. the disputed domain names are 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 names; and
- iii. the disputed domain names have been registered and are being used in bad faith.

Besides, paragraph 15(a) of the Rules provides that "[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".

Paragraphs 10(b) and 10(d) of the Rules also provide that "[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case" and that "[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence".

Besides, the Respondent's failure to reply to the Complainant's contentions does not automatically result in a decision in favor of the Complainant, although the Panel is entitled to draw appropriate inferences therefrom, in accordance with paragraph 14(b) of the Rules (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3).

Taking the foregoing provisions into consideration the Panel finds as follows.

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 names. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record (Annex 5 of the Complaint), the Panel finds that 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 NETTICASINO mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Indeed, the disputed domain name <nettikasinos.com> identically reproduce the distinctive element of the Complainant's trademark and only differs from said trademark by minor misspellings (the substitution of the letter "c" by the letter "k", and the addition of the final letter "s") which do not prevent the Complainant's trademark from remaining clearly recognizable. [WIPO Overview 3.0](#), section 1.9.

As far as the disputed domain name <netticasinobonus.info> is concerned, although the addition of other term (here, "bonus") 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 this disputed domain name and the mark for the purposes of the Policy as the latter is identically reproduced in its entirety within the disputed domain name where it remains recognizable. [WIPO Overview 3.0](#), section 1.8.

Regarding the generic Top-Level Domains ("gTLD") ".com" and ".info" in the disputed domain names, it is well established that gTLD do not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

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 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.

Indeed, the Complainant contends that it has not given its consent to the Respondent to use its NETTICASINO trademark in domain name registrations or in any other manner. Besides, there is nothing in the record of the case likely to indicate that the Respondent may be commonly known by the disputed domain names.

Furthermore, the Panels notes that:

- the Complainant's rights predate the disputed domain names by over a decade;

- the disputed domain names carry a risk of implied affiliation to the Complainant because of their construction (they identically reproduce the NETTI distinctive element of the Complainant's trademark, and associate it with the terms "kasino", "casinos" and "bonus", which all refer to the Complainant's field of activity); and
- the disputed domain names direct to a website offering the same services than those proposed by the Complainant under its NETTICASINO trademark, namely gambling services.

The Panel finds that it results from this situation that the Respondent is making a commercial use of the disputed domain names for commercial gain by unduly capitalizing on the Complainant's mark and/or in possibly misleadingly diverting Internet users. Such use is not a bona fide offering of goods or services, or a legitimate noncommercial or fair use of the disputed domain names.

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.

In the present case, the Panel finds that:

- the NETTICASINO trademark predates the registration of the disputed domain names by over 10 years;
- the disputed domains are confusingly similar to the Complainant's trademark;
- the disputed domain names resolve to a website offering services which are of the same nature than those for which the Complainant's prior trademark is used, namely gambling services;
- both domain names: i) have been registered in a close period of time; ii) identically reproduce the dominant element of the Complainant's trademark, namely NETTI; iii) and associate it with elements referring to the field of gambling where the Complainant is active (namely "kasinos", "casino" and "bonus");
- there is a clear absence of rights or of legitimate interests from the Respondent and there is no legitimate explanation for its choice of the disputed domain names; and
- the Respondent, while invited to defend his case, has remained silent.

In these circumstances, the Panel considers that, on the balance of probabilities, the Respondent cannot have proceeded with the registration of the disputed domains without being aware of with the Complainant's trademark.

Besides, it results from the above-mentioned conditions of use of the disputed domain names that the Respondent:

- is using them to intentionally attempt to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark; and
- has more than likely registered them for the purpose of disrupting the business of a competitor by diverting Internet users looking for the Complainant's services.

The Panel notes that the Respondent concealed its identity behind a privacy/proxy service. It has already been held by previous UDRP panels that using a privacy service is not per se evidence of bad faith. However, the overall circumstances of this case (in particular: i) the commercial use of the disputed domain names in the same field of activity as the Complainant; and ii) the registration in a short period of time of several disputed domain names targeting the Complainant), shows an inference that the privacy/proxy service is being used to hide the real identity of the underlying Registrant, and thus it can be considered an inference of bad faith registration and use of said disputed domain names. [WIPO Overview 3.0](#), section 3.6.

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 names <netticasinobonus.info> and <nettikasinos.com> be transferred to the Complainant.

/Fabrice Bircker/

Fabrice Bircker

Sole Panelist

Date: October 3, 2024