

ADMINISTRATIVE PANEL DECISION

Ninja Global Ltd. v. Vale Murg
Case No. D2024-3434

1. The Parties

The Complainant is Ninja Global Ltd., Malta, represented by Abion AB, Sweden.

The Respondent is Vale Murg, Republic of Moldova.

2. The Domain Name and Registrar

The disputed domain name <ninjacasino-se.com> is registered with ODTÜ Geliştirme Vakfı Bilgi Teknolojileri Sanayi Ve Ticaret Anonim Şirketi (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 22, 2024. On August 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 23, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 10, 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 September 11, 2024.

On September 2, 2024, the Center informed the parties in Turkish and English, that the language of the registration agreement for the disputed domain name is Turkish. On September 3, 2024, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

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 September 19, 2024. In accordance with the Rules, paragraph 5, the initial due date for Response was October 9, 2024. The Respondent sent email communications to the Center on October 8, 2024, and November 11, 2024. On October 8, 2024, the proceeding was suspended upon the Complainant's request and reinstated on November 11, 2024. The Center notified the Parties of the commencement of panel appointment process on November 13, 2024.

The Center appointed Gökhan Gökçe as the sole panelist in this matter on November 18, 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 gaming and casino company based in Malta.

The Complainant presented evidence of the following trademark registrations:

- European Union Trademark Registration No. 015743685 NINJACASINO (word mark), registered on November 28, 2016, in classes 9 and 41; and
- European Union Trademark Registration No. 017754516 NINJA CASINO (word and figurative mark), registered on May 14, 2018, in classes 9, 38, and 41.

The Complainant is also the owner of the domain name <ninjacasino.com>, registered on December 16, 2010.

According to the Whois records, the disputed domain name was registered on May 9, 2024, and it resolves to a website purportedly offering the same services as the Complainant, namely gaming and casino services.

On June 25, 2024, the Complainant sent a cease-and-desist letter to the Respondent, without receiving any reply.

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.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. On October 8, 2024, in response to the email regarding Notification of Complaint and Commencement of Administrative Proceeding from the Center, the Respondent emailed the Center as follows:

"I would like to inform you that we are not agree with the dispute and request to suspend the present dispute to explore settlement tasks."

Additionally, further to the Complainant's request for reinstatement of proceeding and upon the Center's email reinstating the proceedings, on November 11, 2024, the Respondent also sent the below email to the Center:

“Deare All. We strongly disagree with the allegations made against us and the domain name ninjacasino se.com and consider them far-fetched and unsubstantiated. If the Complainant wants to prove something, he should apply to the courts of international instances. Nevertheless, the Complainant is entitled to its subjective opinion. Regards.”

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Turkish. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the disputed domain name comprises three words in English, such as “ninja”, “casino” and “se” (country code for Sweden), therefore the Respondent appears to be capable of reading and understanding the English language.

The Respondent did not make any submissions with respect to the language of the proceeding, even though communicated in Turkish and in English. The Respondent did not comment on the Complainant’s request for the language of the proceeding be English and sent email communications in English to the Center.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties’ ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.5.1).

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2. Substantive Issues

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

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

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant’s contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the [WIPO Overview 3.0](#).

For the evaluation of this case, the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

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 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 (albeit with the two-word elements separated by a hyphen). Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is also well accepted that a generic Top-Level Domain, in this case “.com”, is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.

Although the addition of term “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 disputed domain name resolves to a website purportedly offering the same services as the Complainant, namely gaming and casino services in direct competition with the Complainant and such use does not amount to use for a bona fide offering of goods and services. Rather, it appears that the purpose behind the Respondent's website at the disputed domain name is to encourage Internet users, under the impression

that they are dealing with the Complainant, to utilize the gaming services purportedly offered by the Respondent, such conduct not being bona fide.

For the reasons discussed in relation to bad faith below, it is likely that the Respondent registered the disputed domain name to take advantage of the confusion with the Complainant's mark. The Respondent's registration and use of the disputed domain name in these circumstances cannot represent a bona fide offering of goods or services under paragraph 4(c)(i) of the Policy and cannot confer rights or legitimate interests. *Sistema de Ensino Poliedro Vestibulares Ltda., Editora Poliedro Ltda. v. Anonymize, Inc. / STANLEY PACE*, WIPO Case No. [D2022-1981](#).

Furthermore, the nature of the disputed domain names carries a risk of implied affiliation. [WIPO Overview 3.0](#), 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.

In the present case, the Panel notes that the Respondent must have been aware of the Complainant's trademark as the disputed domain name was registered eight years after the registration of the Complainant's trademark and it resolves to a website that offers competing services, i.e. online casino games with using a similar logotype (same color combination). It is thus unlikely that the Respondent, apparently operating in the same industry, was not aware of the Complainant and the potential for confusion; the Respondent at least should have known this. [WIPO Overview 3.0](#), section 3.2.2.

Further, the Complainant sent a cease-and-desist letter to the Respondent on June 25, 2024, without any reply, further supporting Panel's finding on 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.

The Respondent did not substantively respond to the Complainant's claims. Panels have typically treated a respondent's submission of a so-called "informal response" in a similar manner as a respondent default. The Panel thus draws an adverse inference from the Respondent's failure to take part meaningfully in the present proceeding. [WIPO Overview 3.0](#), section 4.3.

The Respondent's website purports to offer gaming services in direct competition with the Complainant. Noting the fact that the Respondent passes off as the Complainant on the Respondent's website at the disputed domain name and in the absence of any explanation for the registration, the Panel considers that the most likely explanation is that the Respondent is using the disputed domain name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

With respect to the use of the disputed domain name in bad faith, the Panel finds that the Respondent used the disputed domain name in order to generate traffic to its own website by deliberately misleading Internet users in a false belief that the associated website is either operated or at least authorized by the Complainant.

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

/Gökhan Gökçe/

Gökhan Gökçe

Sole Panelist

Date: December 2, 2024