

ADMINISTRATIVE PANEL DECISION

Glitnor Marketing Ltd v. Viktor Temnyi
Case No. D2024-3483

1. The Parties

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

The Respondent is Viktor Temnyi, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <lucky-casino-online.com> (the “Domain Name”) is registered with Hosting Concepts B.V. d/b/a Registrar.eu. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 27, 2024. On August 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 28, 2024, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the 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 August 28, 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 30, 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 September 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 23, 2024. The Respondent sent an email communication to the Center on August 28, 2024. The Center commenced the panel appointment process on September 24, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on October 1, 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 iGaming company founded in 2018. The Complainant offers, among other products, LuckyCasino. It is one of the fastest growing online casino in Sweden and also operates in on other markets.

The Complainant owns numerous trademark registrations for LUCKY CASINO in several jurisdictions, such as European Union trademark registration No. 018111165 (registered on December 20, 2019). The Complainant's trademark registrations predate the registration of the Domain Name.

The Domain Name was registered on May 14, 2024. The Domain Name has resolved to a webpage that appears to offer gaming services and unauthorized reproduces the Complainant's trademark and webpage content, as well as inviting Internet users to input personal information. The website features also link to third party web casinos in direct competition with the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Name incorporates the Complainant's trademark in its entirety with hyphens and the term "online" added. The additions cannot prevent a finding of confusing similarity to the trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent has no relation with the Complainant and its trademark. The nature of the Domain Name carries a risk of implied affiliation to the Complainant. The Respondent has not made any demonstrable preparations to use the Domain Name in connection with a bona fide offering of goods or services. The use of the Domain Name cannot constitute a legitimate, noncommercial or fair use. On the contrary, it suggests an intent to deceive or confuse Internet users by falsely associating the website at the Domain Name with the Complainant and its trademark.

The Complainant argues that the use of the Domain Name is a clear indication that the Respondent knew of the Complainant's trademark and business at the time of the registration of the Domain Name, and that such use is also evidence of bad faith use. The Respondent uses the Complainant's name and trademark to confuse customers by mimicking the content of the Complainant's official website.

B. Respondent

The Respondent did not reply to the Complainant's contentions but has sent an informal email to the Center on August 28, 2024, inquiring "Who did the complaint come from?".

6. Discussion and Findings

6.1. Procedural issue

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. As the Respondent's mailing address is stated to be in Ukraine, subject to

an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider whether the proceeding should continue. Having considered all the circumstances of the case, the Panel is of the view that it should.

The Panel notes that the courier was not able to deliver the written notice to the Respondent's address in Ukraine. However, the Notification of Complaint was delivered to the Respondent's email address provided by the Registrar without receiving any delivery failure response. Moreover, the Respondent has sent an informal email from his email address to the Center. The Respondent has not opposed the continuation of the proceeding. The Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer the Domain Name shall be referred to the jurisdiction of the courts of the location of the concerned registrar in the Netherlands. Moreover, as described below, the Panel believes the Respondent has registered the Domain Name in bad faith to target the Complainant and mislead consumers.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

6.2. Substantial Issues

A. Identical or Confusingly Similar

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 Domain Name. 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 LUCKY CASINO. In this case, the Domain Name incorporates the Complainant's trademark with the addition of hyphens and the term "online". The additions do not prevent a finding of confusing similarity between the Domain Name and the trademark. [WIPO Overview 3.0](#), section 1.8. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a 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 in the domain name. 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.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. 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 or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services. On the contrary, the use of the Domain Name is clear evidence of bad faith. Moreover, the Panel finds that the composition of the Domain Name carries a risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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 Respondent most likely knew of the Complainant when he registered the Domain Name. It follows from the composition and use of the Domain Name. As mentioned above, the Domain Name has resolved to a website impersonating the Complainant, featuring both the Complainant's trademark and website content. The Panel finds that the Respondent has registered the Domain Name in an attempt to unfairly take advantage of the Complainant's trademark.

Based on the available record, 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 the Domain Name <lucky-casino-online.com> transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: October 10, 2024