

## **ADMINISTRATIVE PANEL DECISION**

Rootz LTD v. Mihaela Sinclair

Case No. D2024-3635

### **1. The Parties**

The Complainant is Rootz LTD, Malta, represented by Wilmark Oy, Finland.

The Respondent is Mihaela Sinclair, Romania.

### **2. The Domain Name and Registrar**

The disputed domain names <caxino.top> and <caxino.website> are registered with Porkbun LLC Porkbun LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 8, 2024. On September 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 10, 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 ("Whois Privacy, Private by Design, LLC") and contact information in the Complaint. The Center sent an email communication to the Complainant on September 11, 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 15, 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 September 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 11, 2024.

The Center appointed Pablo A. Palazzi as the sole panelist in this matter on October 17, 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 Malta company licensed and regulated by the Malta Gaming Authority operating online casinos in countries around the world, under the CAXINO and WHEELZ brands.

The Complainant is the owner of several trademark registrations, including the following:

- European Union Trademark No. 018017682 for CAXINO (word mark), registered on October 7, 2020, for services in class 41;
- European Union Trademark No. 018211738 for CAXINO (device mark), registered on July 7, 2020, for services in class 41;
- International Trademark No. 1552795 for CAXINO (word mark), registered on September 19, 2021, for services in class 41.

The Complainant operates its primary business website at the domain name <caxino.com>.

The disputed domain names <caxino.top> and <caxino.website> were registered on November 27, 2023 and November 29, 2023 respectively. The disputed domain names are currently not in use. However, at the time of filing the complaint, the disputed domain names acted as direct links to an online casino called Joya Casino, which is in competition with the Complainant.

#### **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.

The disputed domain names are confusingly similar to the Complainant's trademarks.

The Respondents have no rights or legitimate interests in respect of the disputed domain names.

The Respondents have no rights to the Complainant's marks and are not commonly known by the disputed domain names.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Paragraph 4(a) of the Policy provides that the Complainant must prove each of the following elements with respect to each disputed domain name:

- (i) the disputed domain name is 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 name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The burden of proof of each element is borne by the Complainant. The Respondent's default does not by itself mean that the Complainant is deemed to have prevailed. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

#### **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 identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

At the time of filing the complaint, the disputed domain names were used to redirect online users to an online casino called Joya Casino, which is in competition with the Complainant; such conduct cannot constitute vest in the Respondent rights or legitimate interests.

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 Complainant has been using its trademark for several years before the registration of the disputed domain names;
- at the time of filing the Complaint, the disputed domain names redirected to an online casino called Joya Casino, which is in competition with the Complainant;
- the Respondent Mihaela Sinclair was involved in four other UDRP cases all of them related to the gaming industry (see *France Televisions v. Mihaela Sinclair*, WIPO Case No. [D2024-2764](#); *Kaizen Gaming International Limited v. Mihaela Sinclair*, WIPO Case No. [D2024-2507](#); *Navasard Limited v. Mihaela Sinclair*, WIPO Case No. [D2024-0636](#), and *Ninja Global Ltd. v. Mihaela Sinclair*, WIPO Case No. [D2024-0452](#)). In all those cases it was held that she acted in bad faith when registering the disputed domain names related to online casinos;
- in light of all these circumstances the Panel is of the view that the Respondent was aware of the Complainant's trademark;
- the Respondent is in default;

In light of these facts, the Panel concludes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its web site or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's web site or location or of a product or service on the Respondent's web site or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

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 <caxino.top> and <caxino.website> be transferred to the Complainant.

*/Pablo A. Palazzi/*

**Pablo A. Palazzi**

Sole Panelist

Date: October 31, 2024.