

ADMINISTRATIVE PANEL DECISION

Rootz Ltd. v. Elizaveta Konstantinova
Case No. D2024-3815

1. The Parties

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

The Respondent is Elizaveta Konstantinova, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <spinz-casino.net> is registered with 101domain GRS Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 19, 2024. On September 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 20, 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 (Private Registrant, Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 24, 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 October 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”).

On September 25 and 27, the Respondent sent email communications to the Center. On October 1, 2024, the Center sent an email regarding possible settlement to the Parties, the Complainant did not request to suspend the proceeding.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on October 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2024. The Respondent did not submit any formal response.

Accordingly, the Center notified the commencement of the panel appointment on October 30, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on November 4, 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 company established in Malta, operating online casinos. One of the Complainant's online casinos is Spinz.

The Complainant is the owner of the following, amongst other, trademark registrations (Annex 6 to the Amended Complaint):

- European Union trademark registration No. 018401262 for the word mark SPINZ, registered on June 12, 2021, in class 41;
- European Union trademark registration No. 018404365 for the word and device mark SPINZ, registered on June 12, 2021, in class 41;
- International trademark registration No. 1620806 for the word mark SPINZ, registered on August 9, 2021, in class 41; and
- International trademark registration No. 1620808 for the word and device mark SPINZ, registered on August 9, 2021, in class 41.

The disputed domain name was registered on August 25, 2024, and presently resolves to an active webpage impersonating 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.

Notably, the Complainant asserts to be licensed and regulated by the Malta Gaming Authority, operating various online games of chance, having won the award for Malta's Best Online Operator of the Year in 2020 and 2022 at Malta's Gaming Excellence Awards (MiGEA). The Complainant further asserts that amongst its online casinos is Spinz, a successful international online casino, which won both Best Online Casino Product of the Year in 2022 as well as Best Online Gaming Product of the Year at MiGEA in 2022.

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's SPINZ trademark, as it fully incorporates the trademark along with the descriptive term "casino", which further enhances the likelihood of confusion.

As to the absence of rights or legitimate interests, the Complainant argues that:

- i. the Respondent has not received permission or authorization to use the Complainant's trademark SPINZ, also not holding trademark rights over "spinz" or "spinz-casino";
- ii. there is no evidence that the Respondent is commonly known by the disputed domain name;
- iii. the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name without intent for commercial gain;
- iv. the Respondent is opportunistically using the Complainant's SPINZ trademark in order to attract Internet users to its website; and

- v. the Respondent is reproducing the Complainant's logo in the website available at the disputed domain name.

As to bad faith registration and use of the disputed domain name, the Complainant asserts that the Respondent intentionally registered the disputed domain name so as to falsely impersonate the Complainant given that the website that resolves from the disputed domain name reproduces the Complainant's logo, which demonstrates the Respondent is intentionally misleading and confusing the public into believing that it is associated or affiliated with the Complainant.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. On the Respondent's message dated September 27, 2024, the Respondent states to have bought the disputed domain name but does not "understand what's wrong with it and what do I have to do to fix it".

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the 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 Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present so as to have the disputed domain name transferred, according to the Policy.

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 SPINZ mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of other term ("casino") and a hyphen 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 Respondent has failed to invoke any of the circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain name. Nevertheless, the burden of proof is still on the Complainant to make at least a prima facie case against the Respondent under the second UDRP element.

In that sense, and according to the evidence submitted, the Complainant has made a prime facie case against the Respondent, which has not been commonly known by the disputed domain name and has not received permission or authorization to use the Complainant’s trademark SPINZ, also not holding trademark rights over “spinz” or “spinz-casino”.

According to the evidence submitted the Respondent is and has used the disputed domain name in connection with an active webpage offering online gaming services depicting the Complainant’s logo in an attempt to intentionally impersonate the Complainant, which cannot be considered as a bona fide offering of goods or services under the Policy. See [WIPO Overview 3.0](#), section 2.13.

The Panel finds that the Respondent does not have rights or legitimate interests with respect to the disputed domain name.

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 Policy indicates in paragraph 4(b)(iv) that bad faith registration and use can be found in respect of a disputed domain name, where, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website 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 website or location or of a product or service on the website or location.

In this case, both the registration and use of the disputed domain name in bad faith can be found in view of the use of the disputed domain name seeking to impersonate the Complainant for fraudulent purposes, as seen above.

Two other factors that corroborate the Panel’s finding of bad faith of the Respondent are the reproduction of the Complainant’s logo on the website that resolves from the disputed domain name and the absence of a formal Response by the Respondent.

For the reasons above, the Respondent's conduct has to be considered, in this Panel's view, as bad faith registration and use of the disputed domain name pursuant to paragraph 4(b)(iv) of the Policy.

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 <spinz-casino.net> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: November 14, 2024