

## **ADMINISTRATIVE PANEL DECISION**

Rootz LTD v. Christian Becker  
Case No. D2024-3865

### **1. The Parties**

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

The Respondent is Christian Becker, Germany.

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

The disputed domain name <spinzzz.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 23, 2024. On September 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 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, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 25, 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 25, 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 October 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 22, 2024. The Respondent sent an email communication to the Center on September 25, 2024. On October 25, 2024, the Center notified the Parties that it would proceed to panel appointment.

The Center appointed Nick J. Gardner as the sole panelist in this matter on November 2, 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 provided under the brand name SPINZ, i.e., "www.spinz.com".

The Complainant owns various trademarks for the term "Spinz" - see for example, European Union trademark registration No. 018401262 for the word mark SPINZ, registered on June 12, 2021, in class 41. These trademarks are referred to as the "SPINZ trademark" in this decision.

The Disputed Domain Name was registered on September 15, 2023, and presently resolves to an active website offering online casino and gambling facilities.

#### **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 that it is licensed and regulated by the Malta Gaming Authority, and that it operates various online games of chance, and that it 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 two additional "z"s. It is phonetically and conceptually the same or very similar.

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 "spinzzz";
- 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 a term which is confusingly similar to the Complainant's SPINZ trademark in order to attract Internet users to its website.

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 mislead and confuse 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. In the Respondent's email message dated September 25, 2024, the Respondent said "Could you please send me over the global trademark registry that shows a violation of the name Spinz.com owned by Rootz LTD? As far as i understand Rootz LTD owns the domain spinz.com. The logo of spinzzz.com, same as layout, look&feel and domain name are far away from Spinz.com. Is there a legit mandate of Mr/Mrs. Ville Patja to represent Rootz LTD?".

## 6. Discussion and Findings

### Preliminary Matters

The Panel notes that no formal Response has been filed. However, given the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the UDRP Rules "to employ reasonably available means calculated to achieve actual notice". Further the Respondent's email communication (see above) shows the Respondent is aware of this proceeding. Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondent's failure to file any formal Response. While the Respondent's failure to file a formal Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the absence of a formal Response (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

### Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with or confusingly similar to a trademark or service mark 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.

### 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 letters "zz" may bear on assessment of the second and third elements, the Panel finds the addition of such letters 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 does not agree with the statement in the Respondent's email (above) that the Disputed Domain Name is "far away from spinz.com".

The Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy non-exhaustively lists three circumstances that demonstrate a right or legitimate interest in the domain name:

- (i) before any notice to you of the dispute, your 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; or
- (ii) you (as an individual, business or other organisation) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

None of these apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use the SPINZ trademark. The Complainant has prior rights in the SPINZ trademark which precede the Respondent's registration of the Disputed Domain Name. The Complainant has therefore established a prima facie case that the Respondent has no rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel finds that the Respondent has failed to produce any evidence to establish any rights or legitimate interests in the Disputed Domain Name. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

## **C. Registered and Used in Bad Faith**

In the present circumstances the fact that the Disputed Domain Name incorporating Complainant's mark resolves to a website which provides services which compete with the Complainant leads the Panel to conclude the registration and use in bad faith.

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

- (i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

In the present circumstances the Panel agrees with the Complainant that factor (iv) applies as the Respondent was seeking to achieve commercial gain by diverting customers looking for the Complainant's services to a competing website. The Panel also notes that the Respondent has not presented any case of good faith that it might have. The Respondent's email (above) refers to a differing logo and differing look and feel but does nothing (beyond a bare assertion) to address the central fact that the Disputed Domain Name itself is confusingly similar to the Complainant's mark SPINZ and its domain name <spinz.com>. In the absence of a credible explanation as to why this is not bad faith registration and use the Panel infers bad faith exists.

Accordingly, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith and the third condition of paragraph 4(a) of the Policy has been fulfilled.

## **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 <spinzzz.com> be transferred to the Complainant.

*/Nick J. Gardner/*

**Nick J. Gardner**

Sole Panelist

Date: November 18, 2024