

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v.
Jamal Becker

Case No. D2024-3930

1. The Parties

The Complainant is Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco, Monaco, represented by De Gaulle Fleurance & Associés, France.

The Respondent is Jamal Becker, United States of America.

2. The Domain Name and Registrar

The disputed domain name <clubmonaco.vip> 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 25, 2024. On September 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 27, 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 30, 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 4, 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 October 7, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 27, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 28, 2024.

The Center appointed Andrew F. Christie as the sole panelist in this matter on November 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 by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a company founded in 1863 by a Sovereign Decree, organized under the laws of Monaco, and with its registered office in the Principality of Monaco. Its main shareholders are the Principality of Monaco and its ruling family, namely, the House of Grimaldi. The Complainant now employs more than 4,000 people, and is the largest employer in the Principality of Monaco.

The Complainant was set up as a public company to run the famous Casino de Monte-Carlo. For that purpose, it was granted a monopoly by way of Sovereign Order for the provision of casino gaming services in the Principality of Monaco. The Complainant has been the sole corporation with the state permission to operate casinos in the Principality of Monaco since April 2, 1863. The most recent renewal of the Complainant's *Privilège des Jeux* was granted by the Ordonnance Souveraine No. 15.732, dated March 13, 2003.

Since 1863, the Complainant has operated the Casino de Monte-Carlo, which is one of the most famous casinos in the world as demonstrated by the frequent references to it in popular culture. Images of, references to or parodies of the Casino de Monte-Carlo feature in many well-known films, books, television programs and magazine and newspaper articles, such that it has become iconic. For example, the Casino de Monte-Carlo has been referenced or used as a setting in novels such as "Rebecca", by Daphne Du Maurier, and films such as the James Bond films "Goldeneye" and "Never Say Never Again", amongst others. The Complainant's trademarks or premises have also been featured in several other films including James Bond's GoldenEye, Cars 2, Ocean Twelve, Iron Man 2 and Madagascar 3.

The Complainant provided evidence that it has obtained registrations in Monaco of the following trademarks: Trademark No. 02.23234 for the word trademark CASINO DE MONACO (registered September 30, 2002); Trademark No. 96.17407 for the word trademark CASINO DE MONTE-CARLO (registered October 30 1996); Trademark No. 07.26226 for the word trademark MONTE-CARLO CLUBBING (registered October 31, 2007); and Trademark No. 24.00212 for the word trademark, MONTE-CARLO CLUB (registered June 1, 2024).

The disputed domain name was registered on April 2, 2024. The Complainant provided screenshots, taken on September 9, 2024, showing the disputed domain name resolved to a website apparently offering gambling games, including slot machines, roulette, and blackjack. As at the date of this decision, the disputed domain name resolves to a website that appears to be the same as the one in the Complainant's screenshots.

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 Complainant contends that the disputed domain name is confusingly similar to a trademark in which it has rights, on the following grounds. The disputed domain name includes the term "Monaco". The adjunction of the term "club" in the disputed domain name does not erase the strong similarity that exists with the Complainant's trademark CASINO DE MONACO to the extent that this term is a generic term. In addition, the French expression "casino de" in the Complainant's trademark – which means in English

“casino of” – is very weakly distinctive and close to the term “club” in the disputed domain name, since these two terms refer to a group, a circle reserved for people in exclusive fields of which the field of gambling is a part. This conceptual similarity between the terms “casino de” and “club” referring to an exclusive place in Monaco is reinforced by the disputed domain name’s generic Top-Level Domain (gTLD) “.vip”, which is an initialism for “very important person”. The disputed domain name is also confusingly similar to the Complainant’s trademark CASINO DE MONTE-CARLO. It includes the geographical term “Monaco”, which is often confused with the expression “Monte-Carlo” which is a district in the city of Monaco. In addition, the public can use the name “Monte Carlo” to refer to “Monaco”, and vice versa. Although the Complainant’s trademark CASINO DE MONTE-CARLO uses the expression “Monte-Carlo”, many previous UDRP panel decisions have held that the replacement of the name “Monte-Carlo” with the name “Monaco” is not capable to sufficiently differentiate the domain name from the Complainant’s trademark. Even though “Monte-Carlo” and “Monaco” are not synonyms, they are commonly used interchangeably. Moreover, the disputed domain name is greatly similar to the Complainant’s trademarks MONTE-CARLO CLUBBING and MONTE-CARLO CLUB, to the extent that it includes both the interchangeable expression “Monaco” of the Complainant’s trademark expression “Monte-Carlo” and the generic synonymous terms “club” and “clubbing”. The content of the website associated with the disputed domain name can corroborate confusing similarity whereby it appears, as in the case at hand, that the Respondent seeks to target a trademark through the disputed domain name. In the case at hand, the disputed domain name resolves to a gambling platform which is exactly the Complainant’s core business and the services for which its trademarks are well-known. All these elements show that the disputed domain name is confusingly similar to the trademarks in which the Complainant has rights.

The Complainant contends that the Respondent does not have any rights or legitimate interests in the disputed domain name, on the following grounds, among others. The Respondent does not own any trademark CLUB MONACO or CLUBMONACO.VIP. The Respondent has not received any license or authorization from the authorities of the Principality of Monaco to operate a casino or other leisure services in Monaco. The Complainant has never authorized the Respondent to use its 161-year old famous mark CASINO DE MONTE-CARLO or its other trademarks, or to register and use the disputed domain name, and the Complainant does not have any type of business relationship with the Respondent. The Respondent is not making a bona fide use of the disputed domain name because it is exploited in connection with online casinos, and other related gaming services that are traditionally provided by casinos, which is a bad faith use of Complainant’s trademarks for an activity which is identical or similar to that of Complainant’s famous casino. The Respondent therefore has no rights or legitimate interests in the disputed domain name.

The Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith, on the following grounds, among others. The strong reputation and world renown of the Complainant’s trademarks render it impossible for the Respondent to have been unaware that the registration and use of the disputed domain name would violate the Complainant’s rights. The Respondent deliberately decided to register the term “Monaco” as the main component of the disputed domain name since it refers to the Complainant’s trademarks, and to associate this term with the generic term “club”. Such decision is clearly a proof of bad faith registration especially when, on its website, the Respondent claims to being the “CLUBMONACO.VIP casino”. The Respondent’s decision to register the disputed domain name in the same field of activity as the Complainant is clearly a proof of bad faith registration. The Respondent’s use of the disputed domain name is made in bad faith since it is used to access a gambling platform, which is exactly the Complainant’s core business. The Respondent clearly tries to create in the mind of the internet user an association with the Complainant and to unfairly benefit from the Complainant’s prestige and reputation.

B. Respondent

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

6. Discussion and Findings

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. Relevantly for this decision, the Complainant is the owner of a registration for the trademark CASINO DE MONACO and for the trademark MONTE-CARLO CLUB.

Numerous panel decisions under the Policy have found that a domain name containing the terms "casino" and "monaco" is confusingly similar to the Complainant's trademark CASINO DE MONTE-CARLO, on the basis that "Monaco" and "Monte-Carlo" are names that are used interchangeably by the public – see, e.g., *Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. Laurence Michaels*, WIPO Case No. [D2007-1807](#), <goldmonacocasino.net>, and the decisions cited therein. Further, at least one previous panel decision under the Policy involving the Complainant has found that the word "club" is often used to describe or denote a "casino": *Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. Universal Spheres Inc.*, WIPO Case No. [D2010-0822](#), <monacoclub.com>.

The disputed domain name contains only one term from each of the two most relevant trademarks – "monaco" in the case of the trademark CASINO DE MONACO, and "club" in the case of the trademark MONTE-CARLO CLUB. However, the Panel acknowledges that "Monaco" and "Monte-Carlo" are names that are often used interchangeably by the public, and it accepts that the word "club" may be used to denote a "casino". While the issue of confusingly similarity in this case is a close call, on balance the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark CASINO DE MONACO and to the Complainant's trademark MONTE-CARLO CLUB.

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.

The Panel considers that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Also, the evidence establishes that the Respondent has used the disputed domain name to resolve to a website offering gambling, which is the activity in respect of which the Complainant uses its trademarks. Panels have held that the use of a domain name for illegitimate activity, such as implying a commercial affiliation that does not exist, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Having reviewed the available record, the Panel finds that 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 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: (i) the Respondent registered the disputed domain name more than two decades after the Complainant first registered its CASINO DE MONACO trademark; and (ii) the Respondent has used the disputed domain name to resolve to a website that offers gambling, which is the activity provided by the Complainant under its trademark. It seems clear the Respondent registered the disputed domain name with knowledge of the Complainant's trademark.

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 evidence shows that the Respondent has used the disputed domain name in an intentional attempt to attract, for commercial gain, Internet users to a website by creating a likelihood of confusion with the Complainant's trademark. Having reviewed the record, the Panel finds that the Respondent's registration and use of the disputed domain name constitutes bad faith under 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 <clubmonaco.vip> be transferred to the Complainant.

/Andrew F. Christie/

Andrew F. Christie

Sole Panelist

Date: November 13, 2024