

ADMINISTRATIVE PANEL DECISION

Rootz LTD v. Spinzz Support
Case No. D2024-3991

1. The Parties

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

The Respondent is Spinzz Support, Cyprus.

2. The Domain Name and Registrar

The disputed domain name <spinzz888.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 28, 2024. On September 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 30, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 2, 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 October 3, 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 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2024. The Response was filed with the Center on October 18, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on November 14, 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 incorporated in Malta. It offers betting and casino products and services.

The Complainant owns a number of trademark registrations for SPINZ, including the European Union Trademark Registration No. 018401262, registered on June 12, 2021, and the International Trademark Registration No. 1620806, registered on August 9, 2021, for SPINZ, covering protection for i.e. online betting and gaming services as protected in class 41. The International Trademark Registration is designating various jurisdictions such as China, Japan and India.

The Complainant further owns and operates its official website at “www.spinz.com”.

The Respondent is reportedly located in Cyprus. However, the identified beneficial holder of the disputed domain name, as confirmed by the Respondent, appears to be another entity located in Croatia and represented by an individual.

The disputed domain name was registered on June 21, 2024.

The screenshots, as provided by the Complainant, show that the disputed domain name resolves to a website in English language, purportedly offering various kinds of online gambling and casino services, without any visible disclaimer describing the (lack of) relationship between the Parties.

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.

B. Respondent

The Respondent and the beneficial holder of the disputed domain name contend that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name. They particularly argue that the disputed domain name is different to the SPINZ trademark of the Complainant. Furthermore, the Respondent and the beneficial holder of the disputed domain name argue that the served markets are different and they are not impersonating the Complainant.

In the following, the Respondent and the beneficial holder of the disputed domain name are referred to as “the Respondent”, whenever suitable.

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the SPINZ trademark 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 confusingly similar to the SPINZ mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other letters, figures or terms, here "z" and "888", may bear on assessment of the second and third elements, the Panel finds these additions do not prevent a finding of confusing similarity between the disputed domain name and the SPINZ 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 particularly failed to demonstrate any of the other non-exclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or other evidence of rights or legitimate interests in the disputed domain name.

According to the evidence provided by the Complainant, confirmed by an independent search conducted by the Panel, the disputed domain name resolves to a website allegedly offering online casino and gambling services competing to the services provided by the Complainant under its SPINZ trademark, which makes it not difficult for the Panel to conclude that the Respondent is not making a bona fide or fair use of the disputed domain name. [WIPO Overview 3.0](#), section 2.5.3. In addition, the inherently nature of the disputed domain name (comprising a typo of the Complainant's SPINZ trademark by adding a second "z" together with the figure "888", which is a widely used sign for online gambling and casino services) along with the content of the associated website indicates the Respondent's illegitimate intention to create a risk of affiliation or association with the Complainant and its SPINZ trademark.

The Respondent's counter allegation that it serves customers located in different markets than the Complainant is not convincing as the website associated with the disputed domain name is in English language, operated by the Respondent as located in Cyprus (and hence in Europe like the Complainant) with no visible or applied technical limitation to Internet users from specific jurisdictions.

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.

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.

In the present case, noting that the Complainant's trademarks were registered before the registration of the disputed domain name, the Panel notes that the Respondent more likely than not had the Complainant and its SPINZ trademark in mind when registering the disputed domain name. It is obvious to the Panel that the Respondent has deliberately chosen the disputed domain name, which comprises the Complainant's SPINZ trademark in its entirety, to target the Complainant and its online gambling and casino services. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

With respect to the use of the disputed domain name in bad faith, the Panel finds that the Respondent is using the disputed domain name in order to generate traffic to its own website by creating a likelihood of confusion with the Complainant's trademarks. The Respondent argues that they have a different logo, name and brand colors, but does not address the main fact that the disputed domain name itself is confusingly similar to the Complainant's mark SPINZ and its domain name. In the absence of a credible explanation as to why this is not bad faith registration and use the Panel infers bad faith exists. The inherently misleading nature of the disputed domain name as well as the offering of competing online gambling and casino services, is in view of the Panel evidence of the Respondent's bad faith.

Having reviewed the record, the Panel finds 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 <spinzz888.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: November 28, 2024