

## **ADMINISTRATIVE PANEL DECISION**

Elec Games Ltd. v. David Weinstein  
Case No. D2024-4076

### **1. The Parties**

The Complainant is Elec Games Ltd., Malta, represented by Abion AB, Sweden.

The Respondent is David Weinstein, Ukraine.

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

The disputed domain name <boostcasino-fi.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 3, 2024. On October 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 4, 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 October 7, 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 10, 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 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 1, 2024.

The Center appointed Peter Burgstaller as the sole panelist in this matter on November 8, 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 an online games, betting, and casino provider; it provides some of its online services through its sister company under the domain name <boostcasino.com> (Annex 4 to the Complaint).

The Complainant owns trademark rights in the mark BOOST CASINO, inter alia:

- European Union (word) trademark No. 17754681, registered on May 18, 2018;
- United Kingdom (word) trademark No. UK00917754681, registered on May 18, 2018;
- Norwegian (word) trademark Registration No. 323875, registered on September 30, 2022 (Annex 5 to the Complaint).

The disputed domain name was registered on September 6, 2024, and at the time of filing the Complaint, the disputed domain name referred to a website displaying pay-per-click links, such as “Mobilabonnemang Företag” (Annex 6 to the Complaint).

On September 19, 2024, a cease-and-desist letter was sent by the Complainant to the Respondent, through an email address related to the Registrar, requesting inter alia a transfer of the disputed domain name (Annex 7 to the Complaint), to which the Respondent did not reply.

#### **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 contends that the disputed domain name fully incorporates the Complainant's BOOST CASINO trademark, the disputed domain name is therefore confusingly similar to the Complainant's trademark. The addition of a hyphen and the letters “fi” to the disputed domain name does not prevent a finding of confusing similarity.

The Respondent lacks rights or legitimate interests in the disputed domain name, since it has never assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the BOOST CASINO trademark in any manner. The Respondent is moreover unable to demonstrate that it is using the disputed domain name in connection with a bona fide offering of goods or services or it is commonly known by the disputed domain name or it is making a legitimate noncommercial or fair use of the disputed domain name.

Finally, the Respondent has registered and is using the disputed domain name in bad faith with the intent to falsely suggest that the Respondent is in some way related to the Complainant. The Respondent is trying to take advantage of the Complainant's trademark to draw traffic to its website, therefore, the Complainant submits that the website has been used to commercially profit from the likelihood of confusion between the trademark and the disputed domain name. The Complainant furthermore sent a cease-and-desist letter to the Respondent, without any reply, the continued use and registration of the disputed domain name should therefore be considered to be in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Procedural Considerations**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. Since the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should. Further to the Rules, the Center sent the Notification of Complaint by email to the Respondent at its email address as registered with the Registrar, to a privacy service email address, and to a postmaster email address as specified by the Rules. There is no evidence that the case notification email to the disclosed Respondent's email address was not successfully delivered. In addition, the Panel suspects that the Respondent's purported mailing address in Ukraine may not be genuine because the street address as disclosed by the Registrar does not exist in Kiev. Moreover, the disputed domain name was registered in September 2024, during the ongoing international conflict, reflecting that the Respondent is most likely able to access the Internet.

The Panel also notes that the Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer or cancel the disputed domain name shall be referred to the jurisdiction of the courts of the location of the principal office of the concerned Registrar. In this case, the principal office of the Registrar is in the United States of America.

It is moreover noted that, for the reasons which are set out later in this Decision, the Panel finds (albeit in the absence of any Response) that the Respondent has registered and used the disputed domain name in bad faith and with the intention of unfairly targeting the Complainant's goodwill in its trademark.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and decides that the administrative proceeding should take place with due expedition. Therefore, the Panel will proceed to a Decision accordingly.

### **6.2 Substantial Issues**

According to paragraph 4(a) of the Policy, the Complainant must prove that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests with respect to 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 submitted evidence, which incontestably and conclusively establishes rights in the mark BOOST CASINO. [WIPO Overview 3.0](#), section 1.2.1.

In the present case, the disputed domain name is confusingly similar to the BOOST CASINO mark in which the Complainant has rights, since it only adds a hyphen and the letters "fi" to the mark. It has long been established under UDRP decisions that where the relevant trademark is recognizable within the disputed domain name, the mere addition of other terms would not prevent a finding of confusing similarity under the first element of the Policy. [WIPO Overview 3.0](#), section 1.8. This is the case at present, since the BOOST CASINO mark is clearly recognizable in the disputed domain name.

Finally, it has also long been held that generic Top-Level Domains ("gTLDs") (in this case ".com") are generally disregarded when evaluating the confusing similarity of a disputed domain name. [WIPO Overview 3.0](#), section 1.11.1.

Therefore, 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.

While 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 often impossible 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. 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 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 Complainant has not assigned, granted, licensed, sold, transferred, or in any way authorized the Respondent to register or use the BOOST CASINO trademark in any manner.

Further, the Respondent is not commonly known under the disputed domain name, and the disputed domain name is not being used for a bona fide offering of goods or services nor for a legitimate noncommercial or fair use.

The Respondent did not reply to the Complainant's contentions and did not provide any evidence showing its rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

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

As stated in many past decisions rendered under the Policy, both conditions, registration and use in bad faith, must be demonstrated; consequently, the Complainant must show that:

- the disputed domain name was registered by the Respondent in bad faith; and
- the disputed domain name is being used by the Respondent in bad faith.

(i) The Complainant has established rights in the registered trademark BOOST CASINO before the registration of the disputed domain name. Furthermore, the trademark BOOST CASINO is extensively used on the Internet.

Because of the use of the BOOST CASINO mark on the Internet, it is inconceivable for this Panel that the Respondent has registered the disputed domain name without knowledge of the Complainant's rights. Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a widely-known trademark by an unaffiliated entity (as it is in the present case) can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4. Finally, a simple online search for BOOST CASINO would have shown the Complainant and its BOOST CASINO marks.

Therefore, the Panel finds it is more likely than not that the disputed domain name was registered in bad faith by the Respondent.

(ii) The disputed domain name is also being used in bad faith putting emphasis on the following:

- the disputed domain name referred to a website containing pay-per-click links, such as "Mobilabonnemang Företag", which means "mobile subscription business", and thus intentionally attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website;
- the Respondent has failed to present any evidence of any good faith use with regard to the disputed domain name;
- the Respondent did not reply to the cease-and-desist letter sent by the Complainant through the Registrar; and
- there is no conceivable, plausible good faith use with regard to the disputed domain name considering it clearly targets the Complainant's trademark, and the addition of the term "-fi" could lead Internet users into believing that the disputed domain name would be used for the Complainant's online services for Finland.

The evidence and documents produced and put forward by the Complainant together with the fact that the Respondent has failed to present any evidence of any good faith registration and use with regard to the disputed domain name further supports a finding of bad faith.

Based on the available record, 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 <boostcasino-fi.com> be transferred to the Complainant.

*/Peter Burgstaller/*

**Peter Burgstaller**

Sole Panelist

Date: November 20, 2024