

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco, v.
Eduardo Becares
Case No. DLA2022-0001

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 Eduardo Becares, Argentina.

2. The Domain Name and Registrar

The disputed domain name <montecarlo.la> 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 6, 2022. On October 7, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 7, 2022, 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 (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 10, 2022, 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 13, 2022.

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 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 8, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 9, 2022.

The Center appointed Evan D. Brown as the sole panelist in this matter on November 14, 2022. 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 operates the well-known Casino de Monte-Carlo, which has been in operation since 1863, other casinos and gaming houses in Monaco, among other things. It owns the trademark MONTE-CARLO, which it has registered with the Monaco Trademark Office (Reg. No. 14.30170, filed on December 31, 2013).

According to the Whois records, the disputed domain name was registered on May 20, 2022. The Respondent has used the disputed domain name to set up an online gambling platform that bears the mark MONTECARLO in its header.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Complainant's trademark; that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (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 in respect of the disputed domain name, and (iii) the disputed domain name has been registered and is being used in bad faith. The Panel finds that all three of these elements have been met in this case.

A. Identical or Confusingly Similar

This first element under the Policy functions primarily as a standing requirement. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7. This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the MONTE-CARLO mark by providing evidence of its trademark registrations.

The disputed domain name incorporates the MONTE-CARLO mark in its entirety (except for the dash between the two words). This is sufficient for showing confusing similarity under the Policy.

Accordingly, the Complainant has established this first element under the policy.

B. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a *prima facie* showing that the Respondent lacks rights or legitimate interests in respect of the disputed domain name. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondent (with the burden of proof always remaining with the Complainant). See [WIPO Overview 3.0](#), section 2.1; *AXA SA v. Huade Wang*, WIPO Case No. [D2022-1289](#).

On this point, the Complainant asserts, among other things, that: (1) it is not aware of any trademark rights of the Respondent in the mark “montecarlo” or “montecarlo.la” in the Respondent’s home jurisdiction, (2) the Complainant has not authorized the Respondent to register the disputed domain name which comprises a mark nearly identical to the Complainant’s mark, (3) the Respondent has not used the disputed domain name in connection with any *bona fide* offering of goods or services. Instead, the Respondent has used the disputed domain name to establish a website bearing a mark confusingly similar to the Complainant’s services, offering the same services as the Complainant.

The Panel finds that the Complainant has made the required *prima facie* showing. The Respondent has not presented evidence to overcome this *prima facie* showing. And nothing in the record otherwise tilts the balance in the Respondent’s favor. Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

C. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent’s bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent “[uses] the domain name to intentionally attempt to attract, for commercial gain, Internet users to [respondent’s] website or other online location, by creating a likelihood of confusion with complainant’s mark as to the source, sponsorship, affiliation, or endorsement of [respondent’s] website or location or a product or service on [the respondent’s] website or location”.

Because the Complainant’s marks are well-known, it is implausible to believe that the Respondent was not aware of those marks when it registered the disputed domain name, particularly noting that within a short period after the registration of the disputed domain name, the Respondent has used it for a gambling website. In the circumstances of this case, such a showing is sufficient to establish bad faith registration of the disputed domain name. Bad faith use is clear from the Respondent’s activities of using the disputed domain name to set up a gambling website - services identical those offered by the Complainant. For these reasons, the Panel finds that the Complainant has successfully met this third UDRP element.

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, <montecarlo.la> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: November 28, 2022