

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. jimmy jimmy, nona123 domain, Nona master
Case No. D2023-3474

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 Respondents are jimmy jimmy, Indonesia, nona123 domain, Indonesia and Nona master, Indonesia.

2. The Domain Names and Registrars

The disputed domain names <akunpromonaco.co>, <akunpromonaco.online>, <akunpromonaco.site>, and <akunpromonaco1.com> are registered with GoDaddy.com, LLC (the “First Registrar”).

The disputed domain name <akunpromonaco.net> is registered with NameCheap, Inc. (the “Second Registrar”).

The disputed domain name <akunpromonaco.vip> is registered with Go France Domains, LLC (the “Third Registrar”).

The disputed domain name <akunpromonako.com> is registered with HOSTINGER operations, UAB (the “Fourth Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2023. On August 16, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On August 16, 17 and 18, 2023, the Registrars transmitted by email to the Center their verification response disclosing registrants and contact information for the disputed domain names 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 August 18, 2023, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaints for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity.

The Complainant filed an amended Complaint on August 21, 2023.

The Center verified that the Complaint together with 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 August 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 14, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 19, 2023.

The Center appointed John Swinson as the sole panelist in this matter on September 25, 2023. 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 Casino de Monte-Carlo. The Complainant also operates three other casinos in Monaco, as well as hotels, resorts, and restaurants. The Complainant is one of the largest employers in Monaco.

The Complainant's main shareholders are the Principality of Monaco and its ruling family, namely, the House of Grimaldi.

The Complainant owns several trademark registrations in Monaco, including:

- The word mark CASINO DE MONACO, registered on September 30, 2002 and registered under the number 02.23234;
- The word mark CASINO DE MONTE-CARLO, registered on October 30, 1996 under the number 96.17407 and renewed on October 10, 2006; and
- The word mark MONACOGAMING registered on July 15, 2009 under the number 09.27371.

The Respondent did not file a response, so little information is known about the Respondent.

The disputed domain names were registered on the following dates:

- <akunpromonaco.online> registered on April 6, 2023
- <akunpromonaco.site> registered on April 6, 2023
- <akunpromonaco.vip> registered on April 16, 2023
- <akunpromonaco1.com> registered on April 19, 2023
- <akunpromonaco.net> registered on April 27, 2023
- <akunpromonaco.co> registered on April 16, 2023
- <akunpromonako.com> registered on March 9, 2023

All of the disputed domain names, except <akunpromonaco.net> and <akunpromonako.com>, resolve to a website that appears to be targeted at Indonesia residents. The currency stated on the website is Indonesian Rupiah. The websites promote online slot machines. The websites include text in Indonesian, which when translated into English, reads as follows:

"Are you a fan of online slot games? Do you want to experience the thrill of playing the world's most popular slot games from the comfort of your own home? Look no further as the Monaco Pro Account is the ultimate destination for playing online slots.

Monaco Pro Account: The Ultimate Destination for Playing Online Slots

Monaco Pro Account is a website that provides premium accounts for online slot games. By using this premium account, you can access many different slot games and get more bonuses and prizes. A premium account on this site is free with just one registration using the link here. You have got a pro VIP Monaco account. So, if you are a fan of online slot games, you can try Monaco Pro Account to enhance your gaming experience.”

These websites include a coat of arms for Albert II, Prince of Monaco, head of the House of Grimaldi.

The disputed domain name <akunpromonaco.net> resolves to a website that also promotes online slot machines and uses the term “Monaco Pro Account”.

The disputed domain name <akunpromonako.com> does not presently resolve to an active website.

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 names.

Notably, the Complainant contends that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website or other online location, by offering an online gambling website to unduly benefit from the Complainant’s notoriety.

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 enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

The *onus* of proving these elements is on the Complainant.

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant’s request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the ownership details in the registrar records for five of the disputed domain names are identical and content of the websites at these five disputed domain names is also identical.

The disputed domain name <akunpromonako.com>, which does not presently resolve to an active website, has a registrant contact email address that is very similar to the email address used for the other disputed domain names, and gives an address in Indonesia. This disputed domain name was registered only one month prior to the other disputed domain names.

The disputed domain name <akunpromonaco.net> resolves to a website that has subject matter and other elements that are similar to the other disputed domain names. The address of the registrant in the registrar records is Medan, Indonesia, which is the same city as the registrant of five of the other disputed domain names gives as an address. This disputed domain name was registered in the same month as five of the other disputed domain names.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

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 names. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 disputed domain names have a similar structure, being the term "akun pro" (which appears to mean "Professional Account" in Indonesian) and the word "Monaco" (or a misspelling "Monako").

While the addition of other terms, here, "akun pro" may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain names and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name. See, for example, *Consumer Reports, Inc. v. Wu Yan, Common Results, Inc.*, WIPO Case No. [D2017-0371](#). Here, however, the disputed domain names do not include the entirety of any of the Complainant's registered trademarks. The Complainant's trademark registrations, for example, CASINO DE MONACO and MONACOGAMING, include other terms. The Complainant does not own a trademark registration for MONACO alone.

While the term “Monaco” is a geographical term in itself, the Panel notes that, the Complainant owns a “family” of trademarks where the term “Monaco” is reproduced, being the main element of many of the Complainant’s trademarks, “The main element of many of the Complainant’s marks, “Monaco”, is reproduced in its entirety, and the disputed domain name is being used for a website connected to gambling, which supports a finding of confusing similarity”

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. line MKT, ตีความ *monaco789.com*, WIPO Case No. [D2023-2661](#).

It is well established that the content of the Respondent’s website is normally disregarded when assessing confusing similarity under the first element of the Policy. The test is to be conducted by way of a side-by-side comparison of the Complainant’s trademark and the disputed domain names. *Harry Winston Inc. and Harry Winston S.A. v. Jennifer Katherman*, WIPO Case No. [D2008-1267](#).

However, in certain circumstances, it is permissible for the Panel to consider the website at the disputed domain name to gain an indication of the Respondent’s intention with the disputed domain name. See *Fenix International Limited v. Privacy services provided by Withheld for Privacy ehf / Darko Milosevic, Rocket Science Group*, WIPO Case No. [D2022-1875](#) (and the cases cited therein).

In the present case, the Panel reviewed the websites at the disputed domain names and can draw the conclusion that the content of the websites, especially the inclusion of the coat of arms for Albert II, Prince of Monaco, confirm confusing similarity since it appears *prima facie* that the Respondent sought to target the CASINO DE MONACO trademark through the disputed domain names. See [WIPO Overview 3.0](#), section 1.15. This finding is consistent with *La Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. PrivacyProtect.org / Monaco S.A.*, WIPO Case No. [D2013-1498](#). The fact that the disputed domain name <akunpromonako.com> does not presently resolve to an active website does not alter the Panel’s finding, noting that the Respondent has registered multiple disputed domain names, with similar compositions, and likely with the same intentions.

Accordingly, the Panel finds the mark CASINO DE MONACO is recognizable within the disputed domain names. Accordingly, the disputed domain names are identical or confusingly similar to the mark CASINO DE MONACO for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, 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 names. 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 names such as those enumerated in the Policy or otherwise.

Five of the disputed domain names resolve to websites that include the coat of arms for Albert II, Prince of Monaco. The Panel considers that the Respondent is trying to take an unfair advantage of the fame of the Complainant's trademarks in order to attract Internet users to its website, which cannot give rise to rights or legitimate interests in the disputed domain names.

Based on the available record, 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.

The Respondent is using six of the disputed domain names to promote online gambling. The Complainant is world famous for its casinos. The Respondent is using five of the disputed domain names to resolve to websites that include the coat of arms for Albert II, Prince of Monaco. This is a clear reference to the Complainant's famous casino. It demonstrates that the Respondent was aware of the Complainant and intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's famous trademarks.

In relation to the disputed domain name <akunpromonako.com>, which does not currently resolve to an active website, Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the record, the Panel finds the non-use of this disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. [WIPO Overview 3.0](#), section 3.3. Having reviewed the record, the Panel notes the reputation of the Complainant's trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of disputed domain name <akunpromonako.com> does not prevent a finding of bad faith under the Policy.

The Respondent's use of the disputed domain names for activities competitive with those of the Complainant falls foursquare within the example of evidence of registration and use in bad faith given in paragraph 4(b)(iv) of the Policy.

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

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 names, <akunpromonaco.co>, <akunpromonaco.net>, <akunpromonaco.online>, <akunpromonaco.site>, <akunpromonaco.vip>, <akunpromonaco1.com> and <akunpromonako.com> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: October 9, 2023