

## **ADMINISTRATIVE PANEL DECISION**

Escrow Services Overseas Limited v. Viachaslau Dalhanin and Anastasia Pidkaliuk

Case No. D2023-4126

### **1. The Parties**

The Complainant is Escrow Services Overseas Limited, United Kingdom, represented by Herzog, Fox & Neeman, Israel.

The First Respondent is Viachaslau Dalhanin, Ukraine.

The Second Respondent is Anastasia Pidkaliuk, Poland.

### **2. The Domain Names and Registrars**

The disputed domain names <captain-cooks-casino.net> <villento-casino.net>, and <zodiac-casino-login.com> are registered with Marcaria.com International, Inc. (the “First Registrar”).

The disputed domain names <classic-casino.net>, <grand-mondial-casino.net>, and <yukon-gold-casino.net> are registered with NameCheap, Inc. (the “Second Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 3, 2023, in regards all of the disputed domain names except for <zodiac-casino-login.com>. On October 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 4, 2023, the Second 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 (Withheld for Privacy ehf) and contact information in the Complaint. On October 6, 2023, the First 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 (Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 10, 2023, 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 16, 2023, adding the disputed domain name <zodiac-casino-login.com>. On October 17, 2023, the First Registrar confirmed the First Respondent as the registrant of the disputed domain name.

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 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2023. The Second Respondent sent an informal email communication to the Center on October 12, 2023. On November 8, 2023, the Center informed the Parties that it would proceed with the panel appointment process.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on November 17, 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 is part of the Internet Traffic Solutions Limited group which is engaged in the online gaming industry and which operates online gaming websites under various brands, amongst which “Captain Cooks Casino”, “Casino Classic”, “Grand Mondial Casino”, “Villento Casino”, “Yukon Gold Casino”, and “Zodiac Casino”.

The Complainant’s official domain names are the following:

Complainant’s casino	Official Domain Names	Registrariion Date
Captain Cooks Casino	<captaincookcasino.co.uk>	November 13, 2002
	<captaincooks.casino>	July 27, 2021
Classic Casino	<casinoclassic.co.uk>	June 18, 2003
	<casinoclassic.casino>	September 16, 2019
Grand Mondial Casino	<grandmondial.co.uk>	June 18, 2007
	<grandmondial.casino>	August 16, 2021
Villento Casino	<villento.co.uk>	November 17, 2005
	<villento.com>	September 28, 2005
Yukon Gold Casino	<yukongoldcasino.co.uk>	April 30, 2004
	<yukongold.casino>	March 13, 2020
Zodiac Casino	<zodiaccasino.com>	November 11, 1998
	<zodiac-casino.co.uk>	May 1, 2014
	<zodiac.casino>	March 21, 2022

The Complainant owns the following, amongst others, trademark registrations:

- Canadian Trademark registration No. TMA 1,195,582, for CAPTAIN COOKS CASINO, filed on June 30, 2021 and registered on August 30, 2023, in classes 9 and 41;
- European Union Trademark registration No. 007328446, for CAPTAIN COOKS CASINO, filed on October 20, 2008, registered on October 22, 2010, successively renewed, in classes 36 and 41;
- Canadian Trademark registration No. TMA 1,195,586, for CASINO CLASSIC CASINO, filed on June 30, 2021 and registered on August 30, 2023, in classes 9 and 41;
- European Union Trademark registration No. 007161003, for CASINO CLASSIC, filed on August 14, 2008, registered on October 14, 2010, successively renewed, in classes 36 and 41;
- Canadian Trademark registration No. TMA 1,195,588, for GRAND MONDIAL CASINO, filed on June 30, 2021 and registered on August 30, 2023, in classes 9 and 41;

- European Union Trademark registration No. 015897689, for GRAND MONDIAL, filed on October 7, 2016, registered on February 9, 2017, in classes 36 and 41;
- Canadian Trademark registration No. TMA 1,195,585, for VILLENTO CASINO, filed on June 30, 2021 and registered on August 30, 2023, in classes 9 and 41;
- European Union Trademark registration No. 015897689, for VILLENTO, filed on October 7, 2016, registered on February 9, 2017, in classes 36 and 41;
- Canadian Trademark registration No. TMA 1,195,583, for YUKON GOLD CASINO, filed on June 30, 2021 and registered on August 30, 2023, in classes 9 and 41;
- European Union Trademark registration No. 007328974, for YUKON GOLD CASINO, filed on October 20, 2008, registered on October 18, 2010, successively renewed, in classes 36 and 41;
- Canadian Trademark registration No. TMA 1,195,581, for ZODIAC CASINO filed on June 30, 2021 and registered on August 30, 2023, in classes 9 and 41; and
- European Union Trademark registration No. 007329014, for ZODIAC CASINO, filed on October 20, 2008, registered on November 11, 2010, successively renewed, in classes 36 and 41.

The disputed domain names were registered on and are presently used in connection with:

<b>Disputed Domain Name</b>	<b>Registration Date</b>	<b>Present Use</b>
<captain-cooks-casino.net>	January 31, 2022	Active webpage on casinos in Canada also offering promotional codes to Complainant's competitors.
<classic-casino.net>	July 6, 2023	Active webpage on casinos in Canada also offering promotional codes to Complainant's competitors.
<grand-mondial-casino.net>	July 11, 2023	Active webpage offering promotional codes to Complainant's competitors.
<villento-casino.net>	March 13, 2023	Active webpage on casinos in Canada also offering promotional codes to Complainant's competitors
<yukon-gold-casino.net>	April 4, 2023	Active webpage on casinos in Canada also offering promotional codes to Complainant's competitors
<zodiac-casino-login.com>	March 3, 2023	Active webpage offering promotional codes to Complainant's competitors

## 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 argues that the disputed domain names were registered by the same person or entity, somehow connected to each other, and are under common control, given that: (i) the Second Respondent has admitted to have access and own the disputed domain names "just like" the First Respondent; all disputed domain names (ii) share the same nameservers; (iii) are used in connection with similar websites with similar layout and content; and (iv) also share a similar naming pattern.

Furthermore, the Complainant contends that the disputed domain names are all confusingly similar to the Complainant's trademarks in that they are identical and confusingly similar to the Complainant's trademarks, consisting merely of their entire reproductions with hyphens and generic terms such as "login".

The Complainant further contends that the Respondents have no rights or legitimate interests in respect of the disputed domain names given that:

- i. the Respondents are not affiliated with any of the companies within the Complainant's group and have never been licensed or otherwise authorized to use the Complainant's trademarks;

- ii. neither of the Respondents, nor any business operated by them, is or has ever been commonly known by the disputed domain names; and
- iii. the Respondents are using the disputed domain names to offer “promo codes” and direct Internet users to competing gaming services.

Moreover, under the Complainant’s view, the Respondents’ registration of the six disputed domain names referring to six different trademarks owned by the Complainant is in itself a compelling *prima facie* of bad faith conduct which is reinforced by the use made of the disputed domain name to offer promotional codes and direct Internet users to competing gaming services.

## **B. Respondents**

The Second Respondent sent an informal message to the Center on October 12, 2023, stating that:

“Good day! Just like [the First Respondent], I have access to and own the domains <captain-cooks-casino.net>, <classic-casino.net>, <grand-mondial-casino.net>, <villento-casino.net> and <yukon-gold-casino.net>. I reiterate that the content on these sites is in no way related to the products: captain cooks, classic casino, grand mondial, villento casino. We do not share any design identity, our logos are different, the content was not taken from the websites of these products but was written by our editors or taken from open sources. Additionally, there are no links to these products, no screenshots or photos that in any way relate to these products. Furthermore, the licenses for these products’ gambling operations do not include the domains that belong to me. My websites are informational in nature and do not allow visitors to play for real money. If the company accusing me of phishing and using visitor data believes that visitors to my sites somehow relate to their products, I believe the correct course of action for them would be to approach Google and address the issue with them”.

No further or formal reply was submitted by either of the Respondents.

## **6. Discussion and Findings**

### **6.1 Procedural matter – Consolidation of Multiple Respondents**

The Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the 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 registrants pursuant to paragraph 10(e) of the Rules.

The Second Respondent expressly recognized joint ownership of the disputed domain names with the First Respondent in its informal message addressed to the Center, as seen above.

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, in addition to such express admission of joint control, all disputed domain names (i) share the same nameservers; (ii) are used in connection with similar websites with similar layout and content; (iii) also sharing a similar naming pattern.

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 in a single proceeding.

## **6.2 Further 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 First Respondent's mailing address is stated to be in Ukraine (whether this is indeed accurate is not clear), 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. The Panel notes that the First Respondent has replied in this proceeding, illustrating its notice of these proceedings. Further, the Panel notes that the First Respondent's reply has remarked on its communal ownership of the disputed domain names with the Second Respondent, who is reportedly based in Poland.

Lastly, the Panel also notes that the Complainant has specified in the Complaint that any challenge made by the Respondents to any decision to transfer or cancel the disputed domain names shall be referred to the jurisdiction of the Courts of the location of the principal office of the relevant registrar, neither of which are based in Ukraine.

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

## **6.3 Substantive matter**

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met for this Panel to order the transfer of the disputed domain names to the Complainant:

- (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondents have 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 Complainant must prove in this administrative proceeding that each of the aforementioned three elements is present in order to obtain the transfer of the disputed domain names.

### **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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of the abovementioned trademarks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the marks is reproduced within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of hyphens and other term (“login”) may bear on assessment of the second and third elements, the Panel finds the addition of such elements does not prevent a finding of confusing similarity between the disputed domain names and the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 Respondents claim that their licenses are informational in nature and do not allow visitors to play for real money. Such allegation is not corroborated by the evidence produced and actual use made of the disputed domain names in connection with the offer of promotional codes and redirection of Internet users to competing gaming services. Such use cannot be considered a *bona fide* offering of goods or services under the Policy or a legitimate noncommercial fair use, particularly given the nearly identical nature of the disputed domain names as compared to the Complainant’s trademarks that, as such, create a risk of implied affiliation rendering any fair use under such composition implausible.

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.

As seen above, the use made of the confusingly similar disputed domain names in connection with the offer and redirection to competing gaming services clearly characterizes the Respondents’ bad faith registration and use of the disputed domain names. Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondents’ registration and use of the disputed domain names constitutes bad faith under the Policy.

Three other factors further corroborate the Panel’s finding of bad faith registration and use of the disputed domain names: (i) the Respondents’ pattern of bad faith conduct, given the Respondents choice to register and use the disputed domain names that refer to six different trademarks of the Complainant; (ii) the use of a privacy protection service in an attempt to conceal the Respondents true identity; and (iii) the indication of what appears to be false contact details, not having the Center been able to fully deliver the written communications to the Respondents.

Having reviewed the record, the Panel finds the Respondents' registration and use of the disputed domain names constitutes bad faith under 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, <captain-cooks-casino.net>, <classic-casino.net>, <grand-mondial-casino.net>, <villento-casino.net>, <yukon-gold-casino.net>, and <zodiac-casino-login.com>, be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: December 1, 2023