

ADMINISTRATIVE PANEL DECISION

Ninja Global Ltd. v. Mihaela Sinclair
Case No. D2024-0452

1. The Parties

The Complainant is Ninja Global Ltd., Malta, represented by Abion AB, Sweden.

The Respondent is Mihaela Sinclair, Romania.

2. The Domain Names and Registrar

The disputed domain names <ninjacasino.website> (the first disputed domain name) and <ninjacasino.shop> (the additional disputed domain name) are registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2024 in relation to the first disputed domain name. On January 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the first disputed domain name. On February 1, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the first disputed domain name which differed from the named Respondent (Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 5, 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 February 6, 2024, requesting to add the additional disputed domain name to the proceedings. On February 8, 2024, the Center transmitted by email to the Registrar, a request for registrar verification in connection with the additional disputed domain name. On February 8, 2024, the Registrar transmitted by email to the Center confirming that the Respondent is listed as the registrant and providing the contact details.

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 February 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 5, 2024. Due to an apparent issue with the notification, on March 11, 2024, the Center granted the Respondent until March 21, 2024, to indicate whether the Respondent would like to participate to this proceeding. The Respondent did not submit any communication.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on April 2, 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 gaming and casino company and owns many trademark registrations for NINJA CASINO worldwide such as the following:

1. European Union Trademark Registration No. 017754516, registered on May 14, 2018;
2. European Union Trademark Registration No. 015743685, registered on November 28, 2016.

The disputed domain names <ninjacasino.shop> and <ninjacasino.website> were registered on November 26, 2023, and November 29, 2023, respectively and redirect to inactive websites. At the time of filing the Complaint, the disputed domain names redirected to third party websites some of which were advertising online casinos.

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 disputed domain names are confusingly similar to a trademark or service mark in which the Complainant has rights. The disputed domain names incorporate the Complainant's trademark in its entirety. The generic Top-Level Domains ("gTLDs") ".website" and ".shop" contribute to the risk of confusion.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain names. The Complainant did not authorize or license the Respondent to use its trademark. There is no evidence that the Respondent is commonly known by the disputed domain names. There is no evidence of making a legitimate noncommercial or fair use of the disputed domain names. The disputed domain names were registered in order to mislead consumers. At the time of filing, the disputed domain names redirected to spam websites that advertise online casinos.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. The Respondent must have had knowledge of the Complainant's trademark as the Complainant's trademark was registered and used prior to the registration of the disputed domain names. The disputed domain names were registered in order to take advantage of the Complainant's trademark to divert Internet traffic. The Respondent did not reply to the cease-and-desist letter. The Respondent used a privacy service when registering the disputed domain names.

B. Respondent

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

6. Discussion and Findings

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

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 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.

Furthermore, the nature of the disputed domain names carries a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel notes that the Respondent must have been aware of the Complainant's trademark as the disputed domain names were registered seven years after the registration of the Complainant's trademark and they redirected to third party websites advertising online casinos.

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.

According to the evidence submitted by the Complainant, the disputed domain names redirected to a third-party website informing the Internet users that an online casino game is coming soon. The fact that the disputed domain names redirected to a website advertising the upcoming of a competitive online casino service, demonstrates the Respondent's intent to target the Complainant. In light of the lack of any rights or legitimate interests in the disputed domain names by the Respondent and in the absence of any conceivable good faith use, the Panel finds from the present circumstances that the Respondent has intentionally attempted to attract Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks.

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 <ninjacasino.shop> and <ninjacasino.website> be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: April 16, 2024