

ADMINISTRATIVE PANEL DECISION

Yggdrasil Malta Limited v. Sisca Hng
Case No. D2023-4238

1. The Parties

Complainant is Yggdrasil Malta Limited, Malta, represented by Aera A/S, Denmark.

Respondent is Sisca Hng, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <yggdrasil-gaming.org> (the “Domain Name”) is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 11, 2023. On October 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same date, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy (DT)) and contact information in the Complaint. The Center sent an email communication to Complainant on October 13, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on October 16, 2023.

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 Respondent of the Complaint, and the proceedings commenced on October 31, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 20, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 27, 2023.

The Center appointed Kimberley Chen Nobles as the sole panelist in this matter on December 13, 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

Complainant, formed in 2013 in Malta, and with offices currently in Poland, Sweden, Gibraltar, United Kingdom, and Malta, is a provider of online gaming solutions for i-gaming operators. Complainant operates scalable business model with products such as: Casino Slots, Table Games and Bingo, in addition to the businesses: Yggdrasil White Label Studios, YGS Masters and Yggdrasil Dragons.

Complainant owns the numerous registered trademarks with the YGGDRASIL mark worldwide, including:

- EUTM trademark registration number 017763699 for YGGDRASIL word and design mark, registered on June 30, 2018;
- International trademark registration number 1539627 for YGGDRASIL word and design mark, registered on May 4, 2020;
- International trademark registration number 1538272 for YGGDRASIL word mark registered on May 4, 2020; and
- United States of America trademark registration number 6,405,736 for YGGDRASIL word mark, registered on July 6, 2021.

Complainant also claims that it is the owner of several domain name registrations with the YGGDRASIL mark, including <yggdrasilgaming.com>.

The Domain Name was registered on December 17, 2022. At the time of the filing of the Complaint, it resolved to an active website in Indonesian that imitated Complainant's website displaying Complainant's mark, referred to Complainant's games and provided links to a competing third-party online casino site. At the time of the Decision, the Domain Name resolves to an error page.

5. Parties' Contentions

A. Complainant

Complainant contends that (i) the Domain Name is confusingly similar to Complainant's trademarks; (ii) Respondent has no rights or legitimate interests in the Domain Name; and (iii) Respondent registered and is using the Domain Name in bad faith.

In particular, Complainant contends that it has trademark registrations for YGGDRASIL, and that Respondent registered and is using the Domain Name with the intention to confuse Internet users looking for *bona fide* and well-known YGGDRASIL products and services.

Complainant notes that it has no affiliation with Respondent. Complainant further contends that Respondent is using the Domain Name as a tool to exploit Complainant's reputation for its own commercial gain, and that Respondent has no rights or legitimate interests in the Domain Name. Further, Complainant contends that Respondent has acted in bad faith in acquiring and setting up the Domain Name, when Respondent clearly knew of Complainant's rights.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed Complainant must satisfy the Panel that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name was registered and is being used in bad faith.

Section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") states that failure to respond to the complainant's contentions would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true.

Thus, although in this case, Respondent has failed to respond to the Complaint, the burden remains with Complainant to establish the three elements of paragraph 4(a) of the Policy by a preponderance of the evidence.

A. Identical or Confusingly Similar

Ownership of a trademark registration is generally sufficient evidence that a complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. See [WIPO Overview 3.0](#), section 1.2.1. Complainant has provided evidence of its rights in the YGGDRASIL trademarks, as noted above under section 4. Complainant has therefore proven that it has the requisite rights in the YGGDRASIL trademarks.

With Complainant's rights in the YGGDRASIL trademarks established, the remaining question under the first element of the Policy is whether the Domain Name, typically disregarding the Top-Level Domain ("TLD") in which it is registered (in this case is, ".org"), is identical or confusingly similar to Complainant's trademark. See, e.g., *B & H Foto & Electronics Corp. v. Domains by Proxy, Inc. / Joseph Gross*, WIPO Case No. [D2010-0842](#).

Here, the Domain Name is confusingly similar to Complainant's YGGDRASIL trademarks. The use of Complainant's trademark in its entirety, with the addition of a hyphen "-" followed by the word "gaming" that is, "-gaming", does not prevent a finding of confusing similarity between the Domain Name and the YGGDRASIL trademark as it is recognizable in the Domain Name.

Thus, the Panel finds that Complainant has satisfied the first element of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make a *prima facie* showing that a respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes out such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with relevant evidence showing rights or legitimate interests, the complainant will have sustained its burden under the second element of the UDRP.

From the record in this case, it is evident that Respondent was, and is, aware of Complainant and its YGGDRASIL trademarks, and does not have any rights or legitimate interests in the Domain Name. In addition, Complainant asserts that Respondent is not an authorized reseller and is not related to Complainant. Respondent is also not known to be associated with the YGGDRASIL trademarks and there is no evidence showing that Respondent has been commonly known by the Domain Name.

In addition, Respondent has not used the Domain Name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. Rather, at the time of the filing of the Complaint, the

Domain Name resolved to a webpage that imitated Complainant's website, displayed the YGGDRASIL word and design marks, referred to Complainant's products and provided links to an active third-party online casino site apparently providing competing services.

In particular, at the time of the filing of the Complaint, the website the Domain Name had a similar look and feel to that of Complainant's website imitated Complainant's website displaying Complainant's mark, contained a copyright notice "© Copyright Yggdrasil Gaming. All Rights Reserved Yggdrasil Gaming" and referred to YGGDRASIL-branded goods and services that Complainant sold without disclosing the relationship (or the lack of relationship) between Complainant and Respondent, thus potentially misleading Internet users into thinking that the website has been authorized or operated by or affiliated with Complainant. The website at the Domain Name also provided links to an active third-party online casino site, and offered the registration of user contact and credit card information and competing services. At the time of the Decision, the Domain Name reverts to an error or inactive page. Such use does not constitute a *bona fide* offering of goods or services or a legitimate noncommercial or fair use and cannot under the circumstances confer on Respondent any rights or legitimate interests in the Domain Name. See, e.g., *Intesa Sanpaolo S.p.A. v. Charles Duke / Oneandone Private Registration*, WIPO Case No. [D2013-0875](#).

Moreover, the nature of the Domain Name, including Complainant's trademark and the term "-gaming" which refers to YGGDRASIL products and services purportedly offered for sale and reinforced its association with Complainant's business and products, is misleading and carries a risk of implied affiliation. See [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the Domain Name. Respondent has failed to produce countervailing evidence of any rights or legitimate interests in the Domain Name, reinforcing the notion that Respondent was not using the Domain Name in connection with a *bona fide* offering.

Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the Domain Name, and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent's actions indicate that Respondent registered and is using the Domain Name in bad faith.

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

"(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

The Panel finds that Complainant has provided ample evidence to show that registration and use of the YGGDRASIL trademarks long predate the registration of the Domain Name. Complainant is also well established and known. Indeed, the record shows that Complainant's YGGDRASIL trademarks and related products and services are widely known and recognized. In addition, the addition of the term "-gaming" to Complainant's trademark in the Domain Name is directly related to Complainant's gaming industry and business activities. Therefore, Respondent was aware of the YGGDRASIL trademarks when it registered the Domain Name, knew, or should have known that the Domain Name was confusingly similar to Complainant's trademarks. See [WIPO Overview 3.0](#), section 3.2.2; see also *TTT Moneycorp Limited v. Privacy Gods / Privacy Gods Limited*, WIPO Case No. [D2016-1973](#).

The Panel therefore finds that Respondent's awareness of Complainant's trademark rights at the time of registration suggests bad faith. See *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *Nintendo of America Inc v. Marco Beijen, Beijen Consulting, Pokemon Fan Clubs Org., and Pokemon Fans Unite*, WIPO Case No. [D2001-1070](#); and *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#).

Further, the registration of the Domain Name incorporating Complainant's YGGDRASIL trademark in its entirety suggests Respondent's actual knowledge of Complainant's rights in the YGGDRASIL trademarks at the time of registration of the Domain Name and its effort to opportunistically capitalize on the registration and use of the Domain Name.

Moreover, Respondent registered and is using the Domain Name to confuse and mislead consumers looking for *bona fide* and well-known YGGDRASIL products and services of Complainant or authorized partners of Complainant. In particular, the evidence provided by Complainant indicated that at the time of filing of the Complaint, the Domain Name resolved to a website which featured Complainant's YGGDRASIL word and design marks, referred to Complainant's YGGDRASIL-branded games, provided links to an active third-party online casino site apparently offering competing services while facilitating registration of online user's contact information and credit card information. The use of the YGGDRASIL mark in the Domain Name is intended to capture Internet traffic from Internet users who are looking for Complainant's products and services. Therefore, by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's webpage by creating a likelihood of confusion with Complainant's YGGDRASIL marks as to the source, sponsorship, affiliation, or endorsement of Respondent's website.

Further, the Panel also notes that the current passive holding of the Domain Name in the circumstances of the case does not prevent a finding of bad faith.

Accordingly, the Panel finds that Respondent registered and is using the Domain Name in bad faith and Complainant succeeds under the third element of paragraph 4(a) 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 Domain Name <yggdrasil-gaming.org> be transferred to Complainant.

/Kimberley Chen Nobles/

Kimberley Chen Nobles

Sole Panelist

Date: December 21, 2023