

## **ADMINISTRATIVE PANEL DECISION**

**Yggdrasil Malta Limited v. Privacy Service Provided by Withheld for Privacy ehf / Sophon Srey, Sary Sophot**  
**Case No. D2022-1812**

### **1. The Parties**

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Sophon Srey, Sary Sophot, Cambodia.

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

The disputed domain names <relax-yggdrasil-thailand.com> and <yggdrasil-relax-gaming.com> are registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 19, 2022. On May 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 23, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 24, 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 May 29, 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 June 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 21, 2022. On June 20, 2022, the Complainant requested to suspend the proceeding to negotiate a settlement. On June 21, 2022, the Center suspended the proceeding. On July 19, 2022, the Complainant requested that the Center reinstitute the proceeding, as a settlement was not reached. On July 21, 2022, the Center reinstated the proceeding.

The Center appointed Luca Barbero as the sole panelist in this matter on August 8, 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 was founded in 2013 and is a provider of online gaming solutions for i-gaming operators.

With offices in Poland, Sweden, Gibraltar and Malta, the Complainant operates in the fields of casino slots, table games and bingo and has, over the years, won a considerable number of awards in the gambling industry such as: “Gaming Software of the Year award by the International Gaming Awards” in 2016, “Innovator of the Year award by the International Gaming Awards” in 2018 and “Innovator in RNG Casino Software Supplier award by the EGR B2B Awards” in 2019.

The Complainant is the owner of several trademark registrations for YGGDRASIL, including the following, as per trademark certificates submitted as annexes E to the Complaint:

- International trademark registration No. 1538272 for YGGDRASIL (word mark), registered on May 4, 2020 in classes 9, 35, 41 and 42;
- International trademark registration No. 1539627 for YGGDRASIL (figurative mark), registered on May 4, 2020, in classes 9, 35, 41 and 42;
- European Union Trademark registration No. 015691959 for YGGDRASIL (word mark), filed on July 25, 2016 and registered on November 4, 2016, in classes 9, 35, 41 and 42;
- European Union trademark registration No. 017763699 for YGGDRASIL (figurative mark), filed on February 2, 2018 and registered on June 30, 2018, in classes 9, 35, 41 and 42;
- European Union trademark registration No. 015059959 for YGGDRASIL GAMING (word mark), filed on February 2, 2016 and registered on July 20, 2016, in classes 9, 35, 41 and 42.

The Complainant is also the owner, amongst others, of the domain names <yggdrasil.com> registered on July 21, 1992, and <yggdrasilgaming.com>, registered on June 21, 2012, both used by the Complainant to promote its products and services under the trademark YGGDRASIL.

The disputed domain name <relax-yggdrasil-thailand.com> was registered on December 16, 2021 and is pointed to an undeveloped Wordpress website displaying the heading “RELAX GAMING & YGGDRASIL”, whilst <yggdrasil-relax-gaming.com> was registered on December 11, 2021 and resolves to an active website in Thai displaying comments and images related to YGGDRASIL and RELAX GAMING and displays the heading “New slot game from RELAX GAMING and YGGDRASIL game camp”, providing also a link to another website offering online slots games and casinos.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant contends that the disputed domain names <relax-yggdrasil-thailand.com> and <yggdrasil-relax-gaming.com> are confusingly similar to the trademark YGGDRASIL in which the Complainant has rights as they both reproduce the trademark in its entirety with the mere addition of the generic terms “relax”, and “gaming”, the geographical indicator “Thailand” and the generic Top-Level Domain “.com”. The Complainant also highlights that the disputed domain name <yggdrasil-relax-gaming.com> is combining the Complainant’s trademark YGGDRASIL with the third-party trademark RELAX GAMING.

With reference to rights or legitimate interests in respect of the disputed domain names, the Complainant states that the Respondent is not affiliated or related to the Complainant in any way, is not licensed or otherwise authorized to use the trademark YGGDRASIL in connection with a website providing casino games, email communication or for any other purpose.

The Complainant highlights that the Respondent is not using the disputed domain names in connection with any *bona fide* offering of goods or services, is not commonly known by the disputed domain names and has not acquired any trademark or service mark rights in the names corresponding to the disputed domain names.

With reference to the disputed domain name <ygdrasil-relax-gaming.com>, redirecting to an active website in Thai, the Complainant submits that the Respondent appears to be intentionally diverting consumers for commercial gain to its website, by providing misleading information about its business relationship with the Complainant.

With reference to the circumstances evidencing bad faith, the Complainant indicates that the Respondent intentionally registered and used the disputed domain names to trade-off the goodwill and reputation of the Complainant's trademark and create a false association, sponsorship or endorsement with the Complainant.

The Complainant emphasizes that the Respondent also acted in opportunistic bad faith as it intentionally registered and used the disputed domain names, comprising the Complainant's well-known trademarks YGGDRASIL and YGGDRASIL GAMING.

Lastly, in light of the fact that the Respondent is directing visitors to its websites and that MX records appear to be also configured on both disputed domain names, the Complainant contends that the Respondent's purpose must have undoubtedly been to impersonate the Complainant and mislead Internet users primarily for the purpose of disrupting the Complainant's business.

## **B. Respondent**

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

On June 14, 2022, the Center received an informal email, from the registrant email address of the disputed domain name <ygdrasil-relax-gaming.com>, requesting instructions on how to transfer the disputed domain name to the Complainant.

The proceeding was temporarily suspended to explore settlement options. A settlement was however not reached, and no further communications were sent by the Respondent.

## **6. Discussion and Findings**

### **6.1 Preliminary procedural issue: consolidation of multiple Respondents and Domain Names**

Paragraph 10(e) of the Rules provides that a panel shall decide a request by a party to consolidate multiple domain name disputes in accordance with the Policy and the Rules.

As stated in section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants' identity(ies) including pseudonyms, (ii) the registrants' contact information including email address(es), postal address(es), or phone number(s), including any pattern of

irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s)".

The Complainant asserted that the disputed domain names, although registered in the name of different named registrants, are under common control since the disputed domain names appear to have been registered using false contact details as the registrant addresses locate tourist attractions in Cambodia and the telephone number listed for the disputed domain name <relax-yggdrasil-thailand.com> is a Swedish mobile phone number with no connection to Cambodia. The Complainant also highlights that the disputed domain names both incorporate the Complainant's well-known trademark YGGDRASIL, thus implying a false and misleading association with the Complainant. The Complainant concludes that the Respondent has taken active steps to conceal its true identity.

In addition to the elements highlighted by the Complainant, the Panel notes that the disputed domain names were both registered in December 2021, that the respective registrant names - Sary Sophot and Sophon Srey -, are very similar and that Gmail email addresses are provided as registrant email address of both disputed domain names. The Panel also notes that both identified named registrants of the disputed domain names have not denied having common control of the disputed domain names.

The Panel finds that the elements referenced above demonstrate that the disputed domain names are, on balance of probabilities, under common control.

In view of the above, this Panel concludes that the consolidation of the two disputed domain names is appropriate in this case and is consistent with the Policy and Rules as well as with prior relevant UDRP decisions in this area (see, amongst others, *Speedo Holdings B.V. v. Programmer, Miss Kathy Beckerson, John Smitt, Matthew Simmons*, WIPO Case No. [D2010-0281](#)).

Therefore, the Panel will now proceed to a decision on the merits of the case. Reference made to "the Respondent" shall be read as referred to both named registrants of the disputed domain names.

## **6.2. Substantive Issues**

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain names registered by the Respondent are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain names;  
and
- (iii) that the disputed domain names have been registered and are being used in bad faith.

### **A. Identical or Confusingly Similar**

The Panel finds that the Complainant has established rights over the trademark YGGDRASIL based on the trademark registrations cited under section 4 above and the related trademark certificates submitted as annexes E to the Complaint.

It is well accepted that the first element functions primarily as a standing requirement, and that the threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between a complainant's trademark and the disputed domain names to assess whether the trademark is recognizable within the disputed domain name (section 1.7 of the [WIPO Overview 3.0](#)). Moreover, where the relevant trademark is recognizable within the disputed domain name, the addition of descriptive or geographical terms would not prevent a finding of confusing similarity under the first element (section 1.8 of the [WIPO Overview 3.0](#)).

The Panel notes that the disputed domain names <relax-yggdrasil-thailand.com> and <yggdrasil-relax-gaming.com> reproduce the trademark YGGDRASIL in its entirety with the addition of hyphens, the descriptive terms "relax" and "gaming" and the geographical indicator "Thailand", which do not prevent a finding of confusing similarity.

The Panel also notes that the disputed domain name <yggdrasil-relax-gaming.com> include a third-party trademark, RELAX GAMING. As stated in prior decisions, where the complainant's trademark is recognizable within the disputed domain name, the addition of other third-party marks does not in itself avoid a finding of confusing similarity to the complainant's mark under the first element (section 1.12 of the [WIPO Overview 3.0](#)).

Furthermore, the Top-Level Domain ".com" can be disregarded under the first element confusing similarity test, being a standard registration requirement (section 1.11 of the [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the Complainant has proven that the disputed domain names are confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

## **B. Rights or Legitimate Interests**

It is well established that the burden of proof lies on the complainant. However, satisfying the burden of proving a lack of the respondent's rights or legitimate interests in respect of the domain names according to paragraph 4(a)(ii) of the Policy is potentially onerous, since proving a negative can be difficult considering such information is often primarily within the knowledge or control of the respondent.

Accordingly, in line with previous UDRP decisions, it is sufficient that the Complainant show a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names in order to shift the burden of production on the Respondent. If the Respondent fails to demonstrate rights or legitimate interests in the disputed domain names in accordance with paragraph 4(c) of the Policy or on any other basis, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In the case at hand, by not submitting a Response, the Respondent has failed to invoke any circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain names.

Moreover, it has been repeatedly stated that when a respondent does not avail itself of its right to respond to a complaint, it can be assumed in appropriate circumstances that the respondent has no rights or legitimate interests in the disputed domain names.

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's trademarks.

Furthermore, there is no indication before the Panel that the Respondent may be commonly known by the disputed domain names.

As indicated above, the disputed domain name <relax-yggdrasil-thailand.com> is pointed to an undeveloped Wordpress website displaying the heading “RELAX GAMING & YGGDRASIL”, whilst <yggdrasil-relax-gaming.com> resolves to an active website in Thai displaying comments and images related to YGGDRASIL and RELAX GAMING and displays the heading “New slot game from RELAX GAMING and YGGDRASIL game camp”, providing also a link to another website offering online slots games and casinos. Both websites to which the disputed domain names resolve provide no disclaimer as to the lack of affiliation with the Complainant.

The Panel finds that the use of the disputed domain names made by the Respondent does not amount to a *bona fide* offering of goods or services or a legitimate non-commercial or fair use without intent for commercial gain to misleadingly divert consumers. Indeed, in view of the incorporation of the Complainant’s well-known trademark in both the disputed domain names, users visiting the correspondent websites might be misled into believing that the websites are owned and operated by the Complainant or one of its affiliated entities, whilst this is not the case.

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain names according to paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain names were registered and are being used by the Respondent in bad faith.

As to the bad faith at the time of the registration, the Panel notes that, in light of the prior registration and use of the Complainant’s trademark YGGDRASIL in connection with the Complainant’s gaming products and services and considering the composition of the disputed domain names, which are clearly aimed at targeting the Complainant as well as a third party operating in the same field owner of the trademark RELAX GAMING (trademark which is entirely reproduced in the disputed domain name <yggdrasil-relax-gaming.com>, whilst being partially reproduced in the disputed domain name <relax-yggdrasil-thailand.com>), the Respondent was very likely aware of the Complainant and its trademark when it registered the disputed domain names.

Moreover, in view of the notoriety of the Complainant’s trademark in the gaming industry, the Panel finds that the Respondent acted in opportunistic bad faith at the time of registration, since the disputed domain names are so obviously connected with the Complainant that its selection by the Respondent, which has no connection with the Complainant, suggests the disputed domain names were registered with a deliberate intent to create an impression of an association with the Complainant.

Furthermore, in light of the contents displayed on the websites to which the disputed domain names resolve, both featuring the Complainant’s trademarks YGGDRASIL and the third party trademark RELAX GAMING, it is clear that the Respondent clearly had the Complainant’s trademark in mind when it registered the disputed domain name.

The Panel finds that the Respondent’s use of the disputed domain name <yggdrasil-relax-gaming.com> in connection with the website described above, displaying information about the Yggdrasil and Relax Gaming products and providing links to an external website promoting a similar gaming service, amounts to bad faith under paragraph 4(b)(iv) of the Policy, since the Respondent intentionally attempted to attract Internet users to its website, in all likelihood for commercial gain, by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation or endorsement of its website and the products and services advertised therein.

The Panel notes that the disputed domain name <relax-yggdrasil-thailand.com> currently resolves to an undeveloped Wordpress website, displaying however the heading “RELAX GAMING & YGGDRASIL”, without providing any disclaimer of non-affiliation with the Complainant. Considering that the disputed domain name incorporates the Complainant’s well-known trademark, the Panel finds that users visiting the

Respondent's website may be confused as to the source or affiliation of the same with the Complainant. Moreover, in view of the Respondent's use of the disputed domain name <yggdrasil-relax-gaming.com> described above, it cannot be excluded that the Respondent intended to use also <relax-yggdrasil-thailand.com> in connection with similar contents in the future.

As additional circumstances of bad faith, the Panel notes that the Respondent failed to submit a Response and apparently provided inaccurate contact details in the Whois information for the disputed domain names.

Lastly, the Panel acknowledges that MX records have been configured for each of the disputed domain names, which may thus be used for the sending of email communications, causing confusion amongst possible recipients as to their source and their approval by the Complainant.

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and is using the disputed domain names in bad faith according to paragraph 4(a)(iii) 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 disputed domain names, <relax-yggdrasil-thailand.com> and <yggdrasil-relax-gaming.com> be transferred to the Complainant.

The transfer of the disputed domain names is ordered without prejudice to the rights of the owner of the trademark RELAX GAMING.

*/Luca Barbero/*

**Luca Barbero**

Sole Panelist

Date: August 23, 2022