

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v.
monaco monaco, dotmax 99
Case No. D2022-4802

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 Respondent is monaco monaco, Indonesia, dotmax 99, Indonesia.

2. The Domain Names and Registrars

The disputed domain names, <monaco138.art>, <monaco138.club>, <monaco138.co>, <monaco138.info>, <monaco138.live>, <monaco138.org>, and <monaco138.vip>, are registered with NameCheap, Inc.; the disputed domain names, <monaco138.click> and <monaco138.lol>, are registered with Dynadot, LLC. (collectively the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 14, 2022. On December 15, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On December 15 and 16, 2022, the Registrars transmitted by email to the Center their verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Redacted for Privacy, Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 16, 2022, providing the registrant and contact information for multiple underlying registrants disclosed by the Registrars, and inviting the Complainant to either amend the Complaint adding the Registrar-disclosed registrants as formal Respondents and provide relevant arguments or evidence demonstrating that all named Respondents are, in fact, the same entity and/or that all domain names are under common control; and/or, to file a separate complaint for any domain name for which it is not possible to demonstrate that all named Respondents are in fact the same entity and/or that all domain names are under common control and indicate which domain name will no longer be included in the current Complaint. The Complainant filed an amended Complaint on December 21, 2022, including arguments for consolidation.

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 December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 18, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on January 27, 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. Consolidation of Proceedings

Seven of the disputed domain names are registered in the name of “monaco monaco” and two in the name of “dotmax 99”. The Complainant submits that all the disputed domain names are in fact in common control and relies on submissions and evidence to the effect that all the disputed domain names comprise the term “monaco138” and a Top-Level Domain (“TLD”), all were registered within a time-frame of seven months, both registrants have addresses supposedly in Indonesia and all the disputed domain names have resolved to similar websites, including an identical “Monaco138” logo.

As discussed in section 4.11.2 of 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.”

Based on the Complainant’s submissions and evidence, the Panel is satisfied that all the disputed domain names are under common control and that there are no circumstances that would render consolidation unfair to any of the parties. The Panel therefore directs that the proceedings be consolidated and will refer to a single Respondent in the remainder of this Decision.

5. Factual Background

The Complainant is a company organized under the laws of Monaco and was founded by sovereign decree in 1863. The Complainant was formed initially to operate the well-known Casino de Monte-Carlo and was granted, and maintains, a monopoly of gambling services in Monaco. It currently operates three additional casinos and a luxury business and leisure resort in Monaco.

The Complainant is the owner of various trademark registrations, including Monaco trademark registration number 02.23234 for the word mark CASINO DE MONACO, filed on July 1, 2002, and registered on September 30, 2002, and Monaco trademark registration number 09.27373 for the word mark MONACOBET, registered on July 15, 2009. It also owns other Monaco registrations for trademarks relating to gambling services, including CASINO DE MONTE-CARLO, MONACOPOKER, and MONACOGAMING.

The disputed domain names were registered on various dates between April 10 and November 21, 2022.

The Complainant submits evidence that all of the disputed domain names, with the exception of <monaco138.vip> and <monaco138.org>, have resolved to similar websites offering online gambling services under the name “Monaco 138”. The remaining two disputed domain names do not appear to have resolved to any active websites.

6. Parties' Contentions

A. Complainant

The Complainant submits that the Casino de Monte-Carlo is the most famous casino in the world and is frequently referred to in popular culture, including "James Bond" and other films. The Complainant submits a selection of media articles concerning its history and casino operations. The Complainant submits that, as a result of its activities referred to above, its casinos and resorts are well known throughout the world.

The Complainant submits that the disputed domain names are confusingly similar to its CASINO DE MONACO trademark. It contends that the disputed domain names appropriate the distinctive MONACO element of the trademark and that the term CASINO within the mark is merely descriptive of its services. The Complainant submits that the additional term "138" in the case of each disputed domain name is likely to be associated with gambling services. It further submits that this is an appropriate case in which to have regard to the content of the Respondent's websites in order to confirm confusing similarity (see section 1.15 of [WIPO Overview 3.0](#)).

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain names. It states that it has never licensed or authorized the Respondent to register the disputed domain names, that the Respondent has no independent trademark rights in respect of the disputed domain names and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain names.

The Complainant submits that the disputed domain names have been registered and are being used in bad faith. It contends that, owing to the worldwide reputation of its CASINO DE MONACO trademark in connection with gambling services, it is impossible for the Respondent to have been unaware that the disputed domain names would violate its rights. The Complainant observes that the Respondent is clearly operated by gambling professionals and speculates (from the similarity of the websites in question and certain registration details) that the Respondent is in fact the same party against whom it has previously filed other complaints under the UDRP.

The Complainant submits that the disputed domain names are being used in bad faith because they intentionally seek to attract Internet users to the Respondent's websites based on the misleading association between the disputed domain names and the Complainant's CASINO DE MONACO and other trademarks. The Complainant further contends that the Respondent is clearly deriving commercial gain from the misrepresentation of an affiliation between its gambling websites and the Complainant's trademarks.

The Complainant submits that the only reason the disputed domain names <monaco138.vip> and <monaco138.org> have not resolved to similar websites is owing to configuration errors.

The Complainant requests the transfer of the disputed domain names.

B. Respondent

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

7. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (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.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in respect of the marks CASINO DE MONACO and MONACOBET. Each of the disputed domain names comprises the term “monaco138” together with a TLD. In the view of the Panel, the addition of the number “138” does not prevent the MONACO element of the Complainant’s trademarks from being recognizable within the disputed domain names. The Panel finds further that the term “138” may be associated by the public with gambling services and therefore implicates the CASINO and BET elements of the Complainant’s trademarks. The Panel further accepts that it is legitimate in this case to have regard to the content of the Respondent’s websites to confirm the confusing similarity whereby it appears *prima facie* that the Respondent seeks to target the Complainant’s trademarks through the disputed domain names (see section 1.15 of [WIPO Overview 3.0](#)).

The Panel therefore finds that the disputed domain names are confusingly similar to trademarks in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant’s submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain names, or evidence of rights or legitimate interests on its part in the disputed domain names, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Respondent does not dispute the Complainant’s submissions that the Respondent registered and has used the disputed domain names for the purpose of websites which take unfair commercial advantage of the Complainant’s trademark rights, which conduct cannot give rise to rights or legitimate interests on the part of the Respondent.

The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

C. Registered and Used in Bad Faith

Based on the Complainant’s submissions and evidence, to which the Respondent has made no reply, the Panel infers that the Respondent can only have registered the disputed domain names deliberately to capitalize on an association between the disputed domain names and the Complainant’s trademarks. In appropriating the term “monaco” in connection with its gambling websites, the Respondent not only takes unfair advantage of the Complainant’s trademarks rights but also impinges upon the Complainant’s monopoly right to provide gambling services in Monaco. It is plain that the Respondent’s websites are provided for commercial purposes and, in all the circumstances of the case, the Panel sees no basis upon which to treat the two currently inactive disputed domain names any differently from those which have been active. In any event, the Respondent’s use of the disputed domain names that have been active creates an ongoing threat to the Complainant in relation to the two currently inactive disputed domain names.

The Panel therefore finds that, by using the disputed domain names, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of its websites or of a product or service on its websites (paragraph 4(b)(iv) of the Policy).

The Panel finds in the circumstances that the disputed domain names have been registered and are being used in bad faith.

8. 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, <monaco138.art>, <monaco138.click>, <monaco138.club>, <monaco138.co>, <monaco138.info>, <monaco138.live>, <monaco138.lol>, <monaco138.org>, <monaco138.vip>, be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: February 10, 2023