

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v.
Pittayaporn Saengarun
Case No. D2023-0381

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 Pittayaporn Saengarun, Thailand.

2. The Domain Names and Registrar

The disputed domain names <monaco88.co>, <monaco88.info>, <monaco88.net> are registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 27, 2023. On January 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On January 27, 2023, 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 (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 30, 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 February 2, 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 the Respondent of the Complaint, and the proceedings commenced on February 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 1, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 2, 2023.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on March 8, 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 a company founded in 1863 and organized under the laws of Monaco with its registered office in the Principality of Monaco. It has a monopoly by way of Sovereign Order for the provision of casino gaming services in the Principality of Monaco since April 2, 1863, and since this date operates the Casino de Monte-Carlo, also known as the Casino de Monaco. The Complainant further operates other three casinos in Monaco (the Monte-Carlo Bay Casino, the Casino Café de Paris, and the Sun Casino), as well as a luxury resort including two palaces and two deluxe hotels, 40 conference and banqueting rooms, 34 restaurants and bars, three spas, and various cultural and leisure venues (including the Monte-Carlo Golf Club and the Monte-Carlo Country Club).

The Complainant operates under various brands incorporating the term “Monaco” and owns various trademark registrations for these brands including:

- The Monaco Trademark Registration No. 02.23234, CASINO DE MONACO, word, registered on September 30, 2002, in classes 3, 9, 12, 14, 16, 18, 28, 34, 35, 38, 39, 41, and 43;
- The Monaco Trademark Registration No. 96.17407, CASINO DE MONTE-CARLO, word, registered on October 30, 1996, in classes 3, 7, 9, 12, 14, 16, 18, 28, 34, 35, 38, 39, 41, 42, 43, and 45;
- The Monaco Trademark Registration No. 09.27380, MONACOPOKER, word, registered on July 15, 2009, in class 41;
- The Monaco Trademark Registration No. 09.27373, MONACOBET, word, registered on July 15, 2009, in class 41;
- The Monaco Trademark Registration No. 09.27370, MONACOSPORTBET, word, registered on July 15, 2009, in class 41;
- The Monaco Trademark Registration No. 09.27372, MONACOWIN, word, registered on July 15, 2009, in class 41; and
- The Monaco Trademark Registration No. 09.27371, MONACOGAMING, word, registered on July 15, 2009, in class 41.

Prior decisions under the Policy have recognized the reputation and worldwide renown of the Complainant’s trademarks CASINO DE MONACO and CASINO DE MONTE-CARLO.¹

The disputed domain name <monaco88.co> (“First Disputed Domain Name”) was registered on June 20, 2022; the disputed domain name <monaco88.net> (“Second Disputed Domain Name”) was registered on August 17, 2022; and the disputed domain name <monaco88.info> (“Third Disputed Domain Name”) was registered on September 10, 2022.

All the disputed domain names resolve to similar websites, in Thai language, offering slot-gambling services and other “pocket games”. These websites do not appear to include any information about their owner or

¹ See, e.g., *Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. Tanwa Chairat*, WIPO Case No. [D2021-3797](#); *Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. Empire Online Ltd*, WIPO Case No. [D2006-0289](#) and *Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. Lucan Toh and Max Wright*, WIPO Case No. [D2007-0249](#).

that of the disputed domain names identifying itself simply as “Monaco88”, neither include these sites any reference to their lack of relationship with the Complainant and the Complainant’s trademarks.

5. Parties’ Contentions

A. Complainant

Key contentions of the Complaint may be summarized as follows:

The disputed domain names are confusingly similar to the Complainant’s trademarks CASINO DE MONACO and CASINO DE MONTE-CARLO, as they incorporate the most relevant term of these marks “Monaco” with the addition of the number “88”, which evocate the field of gambling. The Complainant’s most renowned casino is referred to by the public as the CASINO DE MONACO or CASINO DE MONTE-CARLO; the terms “Monaco” and “Monte-Carlo” used interchangeably by the public. The number “88” is considered especially lucky and has an established presence in the gaming and gambling industries, being suggestive of casino and gambling related activities. The confusing similarity of the expression “monaco88” and the Complainant’s trademarks has been confirmed in *Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v. Registration Private, Domains By Proxy, LLC / Powermight Technology Limited*, WIPO Case No. [D2017-1364](#).

The Respondent has no rights or legitimate interests with respect to the disputed domain names. The Respondent holds no intellectual property rights over any trademark that contain the term “Monaco” either alone or with the numerals “88”, and it has not been authorized to use the Complainant’s trademarks. The disputed domain names are used in bad faith in connection to gambling websites, the same sector where the Complainant’s trademarks are worldwide renown.

The disputed domain names are registered and are being used in bad faith. The strong reputation and world renown of the Complainant’s trademarks render it impossible for the Respondent to have been unaware of the Complainant’s prior rights. Additionally, the Respondent present himself in the websites linked to the disputed domain names as a serious and reliable professional of the gambling industry, so he should have been aware of the Complainant’s casinos and its trademarks. The Respondent has intentionally attempt to attract, for commercial gain, Internet users to benefit from the Complainant’s notoriety and it tries to create in the mind of the Internet users an association with the Complainant’s trademarks to unfairly benefit from their prestige and reputation and to give some legitimacy to its gambling platform to win the trust of players. The Respondent’s websites display images of a woman disguised as a thief as well as other images belonging to the world of pirates (pirates, safes filled with coins) known to be looters, and the association of the Complainant’s trademarks with these images damages their reputation.

The Complainant has cited previous decisions under the Policy as well as various sections of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) that it considers supportive of its position, and requests the transfer of the disputed domain names.

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, *inter alia*, in paragraph 10 of the Rules.

A. Identical or Confusingly Similar

The Complainant indisputably has rights in the registered trademarks CASINO DE MONACO and CASINO DE MONTE-CARLO, both by virtue of its trademark registrations and as a result of its continuous use in the market in these trademarks over a century (since 1863). Additionally, the Complainant uses and has intellectual property rights over other trademarks comprising the term “Monaco”, such as MONACOPOKER, MONACOBET, MONACOSPORTBET, MONACOWIN, and MONACOGAMING.

The disputed domain names incorporate the term “Monaco” with the addition of the number “88”, which, according to the evidence provided by the Complainant, is considered a lucky number in the Chinese culture and has an established presence in the gaming and gambling industries, particularly in Asia. The main element of many of the Complainant’s marks, “Monaco”, is reproduced in its entirety within the disputed domain names, and the addition of a number (“88”) that has connotations with gambling does not prevent a finding of confusing similarity. Furthermore, the Top-Level Domain (“TLD”), such as “.co”, “.info”, and “.net”, is a technical requirement, generally disregarded for the purpose of the analysis of the confusing similarity under the Policy. See sections 1.7, 1.8, and 1.11.1, [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain names are confusingly similar to the Complainant’s trademarks, and the first element of the Policy under paragraph 4(a)(i) has been satisfied.

B. Rights or Legitimate Interests

The Complainant’s assertions and evidence effectively shift the burden to the Respondent of producing evidence of rights or legitimate interests in the disputed domain names, providing the circumstances of paragraph 4(c) of the Policy, without limitation, in order to rebut the Complainant’s *prima facie* case. However, the Respondent has not replied to the Complainant’s contentions, not providing any explanation and evidence of rights or legitimate interests in the disputed domain names.

The applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel considers that the Complainant has made out a strong *prima facie* case that the Respondent could not have rights or legitimate interests in the disputed domain names. The Respondent has not been authorized to use the Complainant’s trademarks, the Parties have no relationship, and there is no evidence that suggests that the Respondent may be commonly known by the terms “Monaco” or “Monaco 88”, or may have any intellectual property rights in these terms. In this respect, the Panel, under its general powers articulated, *inter alia*, in paragraph 10 of the Rules, has corroborated through a search at the Global Brand Database that the Respondent does not own any trademark registration including or consisting of the terms “Monaco” or “Monaco 88”.

The Panel further notes that the disputed domain names and the sites linked to the disputed domain names generate an affiliation with the Complainant and its trademarks, as the Respondent’s websites operate in the same type of services provided over a century by the Complainant. Additionally, the Panel notes that the Respondent’s websites contain no information about their owner or that of the disputed domain names and their lack of relationship with the Complainant, its famous casinos and reputed trademarks. These circumstances do not allow to consider the use of the disputed domain names as a legitimate or *bona fide* use under the Policy.

Therefore, the Panel concludes that the Respondent has not rebutted the Complainant’s *prima facie* case, and all the cumulative facts and circumstances indicate the Respondent lacks any rights or legitimate interests in the disputed domain names.

Accordingly, the Panel finds that the Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Policy, paragraph 4(a)(iii), requires that the Complainant establish that the disputed domain names have been registered and are being used in bad faith.

The applicable standard of proof is, likewise, the “balance of probabilities” or “preponderance of the evidence”, being the Panel prepared to draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2, [WIPO Overview 3.0](#).

The Panel notes the continuous and extensive use of the Complainant’s trademarks CASINO DE MONACO and CASINO DE MONTE-CARLO over more than a century (since 1863), and their extensive presence over the Internet, as well as their well-known character. Any search over the Internet reveals the Complainant, its famous casinos, and well-known trademarks. The Panel further notes that the Complainant’s casinos and the CASINO DE MONACO and CASINO DE MONTE-CARLO marks are object of extensive press coverage and presence in the entertainment industry, being part of popular films, novels, television programs, magazines’ articles and press reports. Furthermore, the Respondent presents itself as a professional of the same industry where the Complainant operates (the gambling industry).

These circumstances lead the Panel to conclude that the Respondent was aware of the Complainant and its trademarks when he registered the disputed domain names and it selected the terms of the disputed domain names, and particularly the term “Monaco”, because of its connection to the Complainant’s trademarks.

The Panel further considers that all cumulative circumstances of this case point to bad faith registration and use of the disputed domain names:

- (i) the disputed domain names incorporate the term “Monaco” its entirety with the addition of a number that has connotations with gambling, which does not prevent a finding of confusing similarity and generates a risk of implied affiliation;
- (ii) the Complainant’s trademarks are well-known internationally in connection to gambling services, and the disputed domain names are used in connection to websites in this same industry;
- (iii) any search over the Internet reveals the Complainant and its trademarks;
- (iv) the Respondent’s websites offer the same services as those which are offered by the Complainant albeit in an online venue, and do not contain any information about their owner or that of the disputed domain names, or any information about their lack of relationship to the Complainant, its casinos and its trademarks; and
- (v) the Respondent has not offered any explanation of any rights or legitimate interests in the disputed domain names and has not come forward to deny the Complainant’s assertions of bad faith.

Therefore, on the balance of probabilities, taking into consideration all cumulative circumstances of this case, the Panel considers that the disputed domain names were registered targeting the Complainant and its trademarks in bad faith. The evidence and circumstances of this case show that, in the balance of probabilities, the disputed domain names were registered and are being used with the intention of obtaining a free ride on the Complainant’s established reputation, to increase the traffic of the sites linked to the disputed domain names by misleading Internet users seeking for the Complainant and its services for a commercial gain, which constitutes bad faith under the Policy.

All of the above-mentioned circumstances lead the Panel to conclude that the disputed domain names were registered and are being used in bad faith. Accordingly, the Panel considers that the Complainant has met its burden of establishing that the Respondent registered and is using the disputed domain names in bad faith under the third element 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, <monaco88.co>, <monaco88.info> and <monaco88.net>, be transferred to the Complainant.

/Reyes Campello Estebaranz/

Reyes Campello Estebaranz

Sole Panelist

Date: March 20, 2023