

ADMINISTRATIVE PANEL DECISION

Novomatic AG v. Admiral Casino, UNITED SYSTEMS

Case No. D2023-1384

1. The Parties

The Complainant is Novomatic AG, Austria, represented by Salomonowitz Attorneys-at-Law, Austria.

The Respondent is Admiral Casino, UNITED SYSTEMS, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <admiralcasino.biz> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 30, 2023. On March 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 31, 2023, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on March 31, 2023 providing the registrant and contact information behind the privacy service as disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on April 5, 2023.

The Center verified that the Complaint together with the amendment to the 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 April 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 3, 2023.

After notification of the Respondent’s default, the Respondent provided informal email responses on May 3 and 4, 2023.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on May 10, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is an international gambling company based in Austria, founded in 1980. It operates about 2,000 casinos and other gaming facilities in about 50 countries, many of them under the Admiral Casino brand. It also offers online gambling and produces slot machines and other technology for the gaming industry. As of 2021, it has about 21,000 employees and annual revenue of EUR 1.8 billion.

The Complainant has several trademark registrations that includes “ADMIRAL”, for example EUTM 004134433 registered on August 14, 2006.

According to the Registrar, the Domain Name was registered on November 1, 2014. The Domain Name has resolved to a website offering slot games and illegal gambling. At the time of drafting the Decision, the Domain Name resolved to an error page.

5. Parties’ Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and argues that the Domain Name is confusingly similar to the Complainant’s trademark as it incorporates the Complainant’s trademark. The addition of the term “casino” does not exclude confusion. The term is descriptive for the services offered.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Respondent reproduces the Complainant’s trademark in the Domain Name without authorization. The Respondent has neither been commonly known by the Domain Name or ADMIRAL nor has acquired any respective trademark rights. The Respondent has not provided any evidence of *bona fide* use of, or demonstratable preparations to use, the Domain Name in connection with any legitimate offering of goods or services. The Respondent uses the Domain Name to offer slot games and to provide illegal gambling.

The Complainant argues that the Respondent registered the Domain Name in full knowledge of the Complainant and its trademarks. The Respondent has used the Domain Name to lead the public to illegal copies of the Complainant’s slot games and to provide illegal gambling. The Respondent has used the Domain Name to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the Complainant’s trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

B. Respondent

The Respondent did not reply to the Complainant’s contentions. The Respondent provided informal replies on March 3rd and 4th 2023. In the Respondent’s reply on March 3rd, the Respondent used the Complainant’s Representative’s email signature and stated: “Thank you! Please unlock the domain, so we can actually transfer the domain out. Currently there is a block on the domain.”

6. Discussion and Findings

A. Identical or Confusingly Similar

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark ADMIRAL. The Domain Name incorporates the Complainant's trademark in its entirety with "casino" added. While the addition may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity. See [WIPO Overview 3.0](#), section 1.8.

For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the generic Top-Level Domain ("gTLD"); see [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, 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. While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. 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 Domain Name.

The Respondent is not affiliated or related to the Complainant. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services. The use of the Domain Name is evidence of bad faith, see below.

Based on the available record, 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.

The composition of the Domain Name and the use of the Domain Name makes it evident that the Respondent was aware the Complainant and its prior rights when the Respondent registered the Domain Name. The fact that the Domain Name now resolves to a (non-active) error webpage, does not prevent a finding of bad faith. The Domain Name fully incorporates the Complainant's trademark together with the term "casino". Based on the case file, the Panel cannot conceive a good faith use of the Domain Name by

the Respondent.

The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. See paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

For the reasons set out above, the Panel concludes that the Domain Name was registered and is being used in bad faith, within the meaning of paragraph 4(a)(iii) of the Policy. 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 Domain Name <admiralcasino.biz> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: May 15, 2023