

## **ADMINISTRATIVE PANEL DECISION**

Viva Republica, Inc. v. Paul Jaty  
Case No. D2024-2277

### **1. The Parties**

The Complainant is Viva Republica, Inc., Republic of Korea (“Korea”), represented by Marq Vision Inc., Korea.

The Respondent is Paul Jaty, United States of America (“US”).

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

The disputed domain name <tossjuso.com> is registered with NameSilo, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 4, 2024. On June 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 4, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (unknown) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 7, 2024, 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 amendment to the Complaint on June 10, 2024.

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 June 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 4, 2024.

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on July 9, 2024. 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 leading Korean fintech company, renowned for its flagship product, "Toss," a comprehensive financial services application. With over 20 million users, the Complainant states that Toss is considered a reputable app for its reliability, security, and innovative approach in Korea. The Complainant actively promotes its trademarks through its official website linked to the domain name <toss.im>.

The Complainant provides evidence that it owns a trademark portfolio for TOSS (a complex mark, consisting of a logo and the word TOSS), including, but not limited to, Korean trademark registration number 4015291090000, registered on October 7, 2019, and Singapore trademark registration number 40202251401Y, registered on June 1, 2023. The Complainant also owns a portfolio of domain name registrations incorporating the TOSS mark, including <toss.im>, the Complainant's main commercial website.

The disputed domain name was registered on June 21, 2023, and is therefore of a later date than the abovementioned trademarks of the Complainant. The Complainant submits evidence that the disputed domain name resolves to an active website in Korean, representing itself as the "TOSS CASINO", offering and promoting gambling activities such as sports betting, live casino, slot games, and mini-games and prominently, prominently featuring the Complainant's logo (which is the logo portion of the Complainant's registered trademark).

#### **5. Parties' Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that the disputed domain name is confusingly similar to its trademarks, that the Respondent is in no way connected to, or licensed by the Complainant, that there are no other justifications for the use of its trademarks in the disputed domain name, and that the Respondent's illegal use of the disputed domain name for gambling services does not confer any rights or legitimate interests on it. The Complainant particularly contends in this regard that the Respondent is using the disputed domain name in connection with illegal activity, namely, the operation of an online casino and gambling site directed at Korea in contravention of Korean law, specifically the Criminal Act, Chapter XXIII, Articles 246 and 247. The Complainant adds that the Respondent is not engaged in a bona fide offering of goods or services but has used the disputed domain name in connection with a website that misleads consumers into thinking that the Respondent is the Complainant and is now holding the disputed domain name for commercial gain; and that the Respondent's use of the disputed domain name has intentionally attracted Internet users to the Respondent's website or other online location for commercial gain, by creating a likelihood of confusion with the Complainant's mark, and that such registration and use is therefore in bad faith.

##### **B. Respondent**

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

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "juso", 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 between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

Upon review of the facts and evidence provided by the Complainant, the Panel notes that the disputed domain name directs to a website representing itself as the "TOSS CASINO", offering and promoting gambling activities such as sports betting, live casino, slot games, and mini-games and prominently featuring the Complainant's logo (which is the logo portion of the Complainant's registered trademark). In the Panel's view, this shows that the Respondent's intention was not to make any use of the disputed domain name as a bona fide provider of goods or services, or to make legitimate noncommercial use or fair use of the Complainant's trademarks in the disputed domain name. Instead, it shows the intention on the part of the Respondent to include the Complainant's trademarks into the disputed domain name to obtain unlawful commercial gains.

Panels have held that the use of a domain name for illegal activity here, claimed illegal gambling directed at the Korean market where this is illegal, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the Respondent has linked the disputed domain name to a website representing itself as the “TOSS CASINO”, offering and promoting gambling activities such as sports betting, live casino, slot games, and mini-games and prominently featuring the Complainant’s logo (which is the logo portion of the Complainant’s registered trademark).

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case, the Panel notes that the Respondent has registered a domain name which is confusingly similar to the Complainant’s intensely used and distinctive trademarks for TOSS, and connected it to a website clearly displaying the logo portion of the Complainant’s trademarks and representing itself as the “TOSS CASINO”, which clearly suggests an affiliation or other connection to the Complainant. Furthermore, the Panel also notes that some of the Complainant’s trademarks were registered years before the registration date of the disputed domain name. The Panel deducts from these elements that the Respondent knew, or at least should have known, of the existence of the Complainant’s trademarks at the time of registering the disputed domain name. In the Panel’s view, these elements indicate bad faith on the part of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain name in bad faith.

As to use of the disputed domain name in bad faith, the Complainant provides evidence that the disputed domain name directs Internet users to a website offering an online casino and gambling services. The Panel accepts that this shows the intention on the part of the Respondent to attract, for commercial gain, Internet users to the website linked to the disputed domain name by creating a likelihood of confusion with the Complainant’s trademark as to the source, sponsorship, affiliation, or endorsement of such website. This constitutes direct evidence of bad faith under paragraph 4(b)(iv) of the Policy. Moreover, the Panel considers that the Respondent also tarnishes the Complainant’s trademarks by using them in the disputed domain name which directs Internet users to a website offering commercial gambling services (see also prior decisions under the Policy such as *Sbarro Franchise Co. LLC v. xiao ming chen, chenxiao ming*, WIPO Case No. [D2022-0550](#)).

The Panel finds that the Complainant has established 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 name <tossjuso.com> be transferred to the Complainant.

*/Deanna Wong Wai Man/*

**Deanna Wong Wai Man**

Sole Panelist

Date July 16, 2024