

ADMINISTRATIVE PANEL DECISION

Ninja Global Ltd v. Super Privacy Service LTD c/o Dynadot / 王鹏聪
Case No. D2022-2875

1. The Parties

The Complainant is Ninja Global Ltd, Malta, represented by Ports Group AB, Sweden.

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America / 王鹏聪, China.

2. The Domain Name and Registrar

The disputed domain name <ninjacasinos.net> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 4, 2022. On August 5, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 6, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 9, 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 amendment to the Complaint on August 10, 2022.

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 August 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 5, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 7, 2022.

The Center appointed Benoit Van Asbroeck as the sole panelist in this matter on September 21, 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 is a limited liability company incorporated in Gzira, Malta, with multiple affiliated subsidiaries worldwide. The Complainant is active in the sports-betting and gaming sector – operating both online and in retail – and claims to be one of the world's leading companies in this sector.

The Complainant owns several trademarks for NINJA CASINO, including:

- United Kingdom verbal trademark NINJACASINO, registered under number 00915743685 on November 28, 2016 in classes 9 and 41;
- European Union figurative trademark NINJA CASINO, registered under number 017754516 on May 14, 2018 in classes 9, 38 and 41;
- European Union figurative trademark NINJA CASINO, registered under number 017754573 on May 14, 2018 in classes 9, 38 and 41.

The Complainant operates the domain name <ninjacasino.com>, registered on December 16, 2010.

The disputed domain name was registered on March 29, 2022 by the Respondent. At the time of the filing of the Complaint, the disputed domain name resolved to a parking page. Prior to the filing of the Complaint, the disputed domain name used to redirect to “www.k8casino.online”, which offers betting and gaming services.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its earlier trademarks NINJA CASINO, as the disputed domain name fully incorporates this string of letters. Additionally, the Complainant submits that the addition of the letter “s” does not diminish the likelihood of confusion. Further, the Complainant contends that the addition of the generic Top-Level Domain (“gTLD”) “.net” does not diminish the likelihood of confusion arising from the disputed domain names.

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name, as the Respondent has neither acquired rights to the NINJA CASINO trademark nor is commonly known by the disputed domain name. Further, the Respondent is not making use of the disputed domain name in relation to a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the disputed domain name without intent of or commercial gain to misleadingly divert consumers.

The Complainant asserts that the Respondent has registered and is using the disputed domain name in bad faith as the Complainant's trademarks significantly predate the registration of the disputed domain name. According to the Complainant, the Respondent is using the disputed domain name to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the website or of a product or service on the website. The Complainant also argues that the use of a privacy service provider is a further indication of bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the UDRP, the Complainant must demonstrate that the disputed domain name is (i) identical or confusingly similar to a trademark or service mark, (ii) in which the Complainant has rights.

On the basis of the evidence presented, it is established that the Complainant owns several NINJA CASINO verbal and figurative trademarks. For the purposes of assessing the identity or confusing similarity of the disputed domain name with the Complainant's trademarks, figurative elements are largely disregarded except where they comprise the dominant portion of the relevant trademark (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.10; *Sweeps Vacuum & Repair Center, Inc. v. Nett Corp.*, WIPO Case No. [D2001-0031](#); *Dreamstar Cash S.L. v. Brad Klarkson*, WIPO Case No. [D2007-1943](#)). The figurative trademarks of the Complainant have a dominant verbal element which reads "ninja casino" and thus constitute relevant trademarks for the assessment of confusing similarity under the UDRP.

The disputed domain name reproduces the Complainant's NINJA CASINO trademarks (or their verbal elements) entirely, albeit with the addition of the letter "s". Previous UDRP panels have consistently held that, in circumstances where the disputed domain name incorporates the entirety of a trademark or its dominant feature is recognizable, the disputed domain name will be considered confusingly similar to the trademark ([WIPO Overview 3.0](#), section 1.7; *Fondation Le Corbusier v. Monsieur Bernard Weber, Madame Heidi Weber*, WIPO Case No. [D2003-0251](#); *Bayerische Motoren Werke AG ("BMW") v. Registration Private, Domains By Proxy, LLC / Armands Piebalgs*, WIPO Case No. [D2017-0156](#)).

This finding of confusing similarity is not precluded by the addition of other terms ([WIPO Overview 3.0](#), section 1.8; *Intesa Sanpaolo S.p.A. v. Rampe Purda*, WIPO Case No. [D2010-1116](#); *Société des Bains de Mer et du Cercle des Etrangers à Monaco v. Mark Bolet*, WIPO Case No. [D2006-1245](#)).

Additionally, it is well-established that the applicable gTLD ".net" is typically not to be taken into account for the purpose of assessing confusing similarity under the Policy, as it is merely standard registration requirements ([WIPO Overview 3.0](#), section 1.11).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the Complainant's NINJA CASINO trademarks and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, evidence of the Respondent's rights or legitimate interests in the disputed domain name for the purposes of paragraph 4(a)(ii) may be established, in particular, by any of the following circumstances:

- (i) prior to becoming aware of the dispute, the Respondent has used the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services, or made serious preparations to do so;
- (ii) the Respondent is known by the disputed domain name in question, even without having acquired trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the disputed domain name without intent to divert consumers for profit by creating confusion or to tarnish the trademark or service mark at issue.

Where the Complainant establishes *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name, the burden of production on this element is on the Respondent and it is up to the Respondent to provide relevant evidence demonstrating rights or legitimate interests in the disputed domain name. If the Respondent does not provide such relevant evidence, the Complainant is deemed to have satisfied the second element ([WIPO Overview 3.0](#), section 2.1).

The Complainant provides *prima facie* evidence that the Respondent has not acquired trademark rights in the term “ninja casino” and that the Respondent is not commonly known by this term either. The Complainant also contends that, based on the content of the website displayed at the disputed domain name, the Respondent is neither making a *bona fide* offering of goods and services nor a legitimate noncommercial or fair use of the disputed domain name without intent to divert consumers for profit by creating confusion or to tarnish the trademark or service mark at issue.

Indeed, the uses made of the disputed domain name by the Respondent can be characterized, first, as redirection to the website of a competitor and, second, to host a parked page comprising pay-per-click links related to gaming or betting – both of which capitalize on the reputation and goodwill of the Complainant. Neither use supports a finding of rights or legitimate interests of the Complainant as both imply a commercial gain for the Respondent which unduly profits from the reputation of the Complainant’s trademarks ([WIPO Overview 3.0](#), section 2.9 and 2.5.3).

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent has not exercised its right to defend itself and has not asserted the existence of a legitimate use of the disputed domain name, so the Panel must conclude that the second condition of paragraph (4)(a) of the Policy is satisfied.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that evidence that a disputed domain name has been registered and is being used in bad faith may be adduced for the purposes of paragraph 4(a)(iii) in particular in certain circumstances, the fourth of which is that:

(iv) by using that domain name, [the respondent has] knowingly attempted to attract, for profit, Internet users to a website or other online space [it] owns, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsor, affiliation, or endorsement of [its] website or web space or a product or service offered therein.

This provision can support an inference of bad faith registration for a respondent to rebut. Such inference can be supported by (i) a clear absence of the respondent’s own rights or legitimate interests, (ii) the nature of the domain name itself (*i.e.*, the manner in which the domain name incorporates the complainant’s mark), (iii) the content of any website to which the disputed domain name points, (iv) the reputation of the complainant’s mark, (v) the use of (false) contact details or a privacy shield to hide the registrant’s identity, (vi) the failure to submit a response, the plausibility of any response, or other indicia that generally cast doubt on the registrant’s *bona fides* ([WIPO Overview 3.0](#), section 3.2.2).

The disputed domain name was registered on March 29, 2022, which is subsequent to the registration of the Complainant’s NINJA CASINO trademarks between 2016 and 2018. The disputed domain name entirely incorporates the Complainant’s trademarks and used to redirect to the website of a company active in the same sector as the Complainant, offering competing goods and services for sale. One of the Respondent’s email addresses seemingly emanates from said third-party company “K8”. The Respondent used a privacy shield to hide his identity and failed to submit a response in the context of these proceedings, despite engaging in resale offers with the Complainant prior to filing of the Complaint.

Further, although the practice of registering a domain name for subsequent resale would not by itself support a claim that the Respondent registered the domain name in bad faith with the primary purpose of selling it to the trademark owner, the circumstances surrounding the resale offer at hand support a finding of bad faith.

These circumstances include (i) the incorporation of the entire NINJA CASINO trademark, (ii) the reputation of the Complainant's trademarks in the gaming and betting sector which the Respondent must have been aware of, given the reference in his contact details to a competitor of the Complainant and the prior redirection to said competitor's website, and (iii) the commercial gain realized by the Respondent through redirection and parking with pay-per-click on the basis of a disputed domain name confusingly similar to the Complainant's trademarks ([WIPO Overview 3.0](#), section 3.1.1)

The combination of the above elements demonstrates bad faith use by the Respondent of the disputed domain name (*Associated Newspapers Limited c. WhoisGuard, Inc. / Paul Baso*, WIPO Case No. [D2020-3261](#)). As set out in [WIPO Overview 3.0](#), section 3.2.2., it also supports a bad faith registration inference that the Respondent knowingly attempted to attract, for profit, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsor, affiliation, or endorsement of its website or web space or a product or service offered therein. The Respondent has not exercised its right to defend itself and has not rebutted said inference, so the Panel must conclude that the third condition of paragraph (4)(a) of the Policy is satisfied.

Accordingly, the Panel finds that the Respondent has registered and used the disputed domain name in bad faith and hence the third condition of paragraph 4(a) of the Policy has been fulfilled.

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 <ninjacasinos.net> be transferred to the Complainant.

/Benoit Van Asbroeck/

Benoit Van Asbroeck

Sole Panelist

Date: October 5, 2022