

ADMINISTRATIVE PANEL DECISION

Société Anonyme des Bains de Mer et du Cercle des Etrangers à Monaco v.
Sirapan sitta, TANWA CHARA
Case No. D2024-0286

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 Respondents are Sirapan sitta, Thailand, and TANWA CHARA, Thailand.

2. The Domain Names and Registrars

The disputed domain names <monaco88-game.com> and <monaco88-vip.com> are registered respectively with Name.com, Inc. and Key-Systems GmbH (the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 23, 2024. On January 24, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 25, 2024, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (c/o WhoisProxy.com and Domain Protection Services, Inc.) and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 26, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file a separate complaint for the disputed domain names associated with different underlying registrants, or alternatively, to demonstrate that the underlying registrants are in fact the same entity and/or that the disputed domain names are under common control. The Complainant filed an amended Complaint on January 31, 2024.

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 Respondents of the Complaint, and the proceeding commenced on February 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 25, 2024. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on February 26, 2024.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on February 29, 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

A. Complainant

The Complainant is a company registered in Monaco and founded in 1863, and is the sole entity licensed to operate casino and gambling activities in Monaco, including the famous Casino de Monte-Carlo.

The Complainant is the owner of a number of registrations in Monaco for trade marks comprising the word "Monaco", registered in respect of casino and gambling related goods and services, including registration No. 02.23234 for the trade mark CASINO DE MONACO, with a registration date of September 30, 2002.

B. Respondents

The Respondents are located in Thailand.

C. The Disputed Domain Names

The disputed domain name <monaco88-vip.com> was registered on August 13, 2023; and the disputed domain name <monaco88-game.com> was registered on August 16, 2023.

D. Use of the Disputed Domain Names

The disputed domain names are both resolved to Thai language websites purportedly offering casino and gambling related services, and containing the same prominent "Monaco 88 and gold dragon logo while it requires a mobile number with password to access the website at the disputed domain name <monaco88-game.com> (the "Websites").

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 names.

B. Respondents

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

6. Discussion and Findings

Consolidation: Multiple Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant alleges that the domain name registrants are the same entity or mere alter egos of each other, or under common control. The Complainant requests the consolidation of the Complaint against the multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules.

The disputed domain name registrants did not comment on the Complainant's request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant's request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2.

As regards common control, the Panel notes that the disputed domain names have been registered using the same registrant email address, and with registrant addresses in Bangkok, Thailand; and that the disputed domain names have been used in the same manner in respect of the Websites (containing the same "Monaco 88" and gold dragon logo).

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as "the Respondent") in a single proceeding.

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 trade mark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

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

The Panel finds the mark is recognizable within the disputed domain names. Accordingly, the disputed domain names are 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, "88", "game" and "vip") may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names 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 names. 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 names such as those enumerated in the Policy or otherwise. To the contrary, the disputed domain names have been used in respect of the Websites, to purportedly offer casino and gambling related services, using the prominent “Monaco 88 and gold dragon logo, and in direct competition with those offered by the Complainant for many years under the Complainant’s CASINO DE MONACO trade mark.

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 used the disputed domain names, without authorisation, in order to derive commercial revenue by purportedly offering casino and gambling related services via the Websites.

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.

The Panel finds that the Respondent’s registration and use of the disputed domain names amounts to bad faith under paragraph 4(b)(iv) of the Policy.

Based on the available record, 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 names, <monaco88-game.com> and <monaco88-vip.com>, be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Date: March 14, 2024