

## **ADMINISTRATIVE PANEL DECISION**

Ninja Global Ltd. v. Mysar Mykhailo  
Case No. D2024-0579

### **1. The Parties**

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

The Respondent is Mysar Mykhailo, Ukraine.

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

The disputed domain name <ninjakasiino.top> is registered with Nicenic International Group Co., Limited (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 8, 2024. On February 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 8, 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 (Redacted for Privacy), and contact information in the Complaint. The Center sent an email communication to the Complainant on February 9, 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 February 9, 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 February 22, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 13, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 18, 2024.

The Center appointed Edoardo Fano as the sole panelist in this matter on March 21, 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.

The Panel has not received any requests from the Complainant or the Respondent regarding further submissions, waivers or extensions of deadlines, and the Panel has not found it necessary to request any further information from the Parties.

Having reviewed the communication records in the case file provided by the Center, the Panel finds that the Center has discharged its responsibility under the Rules, paragraph 2(a), "to employ reasonably available means calculated to achieve actual notice to [the] Respondent". Therefore, the Panel shall issue its Decision based upon the Complaint, the Policy, the Rules, and the Supplemental Rules and without the benefit of a response from the Respondent.

The language of the proceeding is English, being the language of the Registration Agreement, as per paragraph 11(a) of the Rules.

#### **4. Further Procedural Considerations**

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and that the administrative proceeding takes place with due expedition.

Although the Respondent's mailing address is stated to be in Ukraine (though such fact is not possible to verify), which is subject to an international conflict at the date of this Decision which may impact case notification, it is appropriate for the Panel to consider, in accordance with its discretion under paragraph 10 of the Rules, whether the proceeding should continue.

The Panel is of the view that it should. Further to the Rules, the Center transmitted written notice of the Complaint to the Respondent. It is noted that the communications to the Respondent's email addresses were delivered, even though the courier was not able to deliver the written notice to the Respondent as the recipient was absent.

The Panel moreover notes that it is clear the Complainant has been targeted and that this is not a coincidental domain name registration, as is further described herein.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

#### **5. Factual Background**

The Complainant is Ninja Global Ltd., a company operating in the gaming and casino field, and owning several trademark registrations for NINJACASINO and NINJA CASINO, among which:

- European Union Trade Mark Registration No. 015743685 for NINJACASINO, registered on November 28, 2016;
- European Union Trade Mark Registration No. 017754516 for NINJA CASINO and design, registered on May 14, 2018.

The Complainant provided evidence in support of the above.

According to the Whois records, the disputed domain name was registered on April 25, 2023, and it resolves to a website purportedly offering the same services as the Complainant, namely gaming and casino services.

On May 24, 2023, the Complainant sent a cease-and-desist letter to the Respondent, without receiving any reply.

## 6. 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 states that the disputed domain name is confusingly similar to its trademarks NINJACASINO and NINJA CASINO, as the latter are visually and orally recognizable in the disputed domain name, the only differences being the addition/substitution of letters, in an intent of deliberate typosquatting.

Moreover, the Complainant asserts that the Respondent has no rights or legitimate interests in respect of the disputed domain name since it has not been authorized by the Complainant to register the disputed domain name or to use its trademarks within the disputed domain name, it is not commonly known by the disputed domain name and it is not making either a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name resolves to a website purportedly offering the same services as the Complainant, namely gaming and casino services.

The Complainant submits that the Respondent has registered the disputed domain name in bad faith, since the Complainant's trademarks NINJACASINO and NINJA CASINO were registered well before the registration of the disputed domain name. Therefore, the Respondent targeted the Complainant's trademarks at the time of registration of the disputed domain name and the Complainant contends that, by resolving to a website purportedly offering the same services as the Complainant, namely gaming and casino services, the use of the disputed domain name to attract, for commercial gain, Internet users to the Respondent's website, creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, qualifies as bad faith registration and use.

### B. Respondent

The Respondent has made no reply to the Complainant's contentions and is in default. In reference to paragraphs 5(f) and 14 of the Rules, no exceptional circumstances explaining the default have been put forward or are apparent from the record.

A respondent is not obliged to participate in a proceeding under the Policy, but if it fails to do so, reasonable facts asserted by a complainant may be taken as true, and appropriate inferences, in accordance with paragraph 14(b) of the Rules, may be drawn. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

## 7. Discussion and Findings

Paragraph 4(a) of the Policy lists three elements, which the Complainant must satisfy in order to succeed:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### 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 trademarks and the disputed domain name. [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 Panel finds that the disputed domain name is confusingly similar to the trademarks NINJACASINO and NINJA CASINO, by adding/substituting letters.

The Panel notes that this is a typical case of a deliberate misspelling of a mark (so-called “typosquatting”), by adding, deleting, substituting or reversing the order of letters in a mark, where numerous UDRP panels in the past have found confusing similarity to be present. [WIPO Overview 3.0](#), section 1.9.

It is also well accepted that a generic Top-Level Domain, in this case “.top”, is typically ignored when assessing the similarity between a trademark and a domain name. [WIPO Overview 3.0](#), section 1.11.1.

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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the present 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. The disputed domain name resolves to a website purportedly offering the same services as the Complainant, namely gaming and casino services.

Moreover, the Panel finds that the composition of the disputed domain name seeks to create confusion amongst Internet users seeking or expecting the Complainant.

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.

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, regarding the registration in bad faith of the disputed domain name, the reputation of the Complainant’s trademarks NINJACASINO and NINJA CASINO in the field of gaming and casino is clearly established, and the Panel finds that the Respondent likely knew of the Complainant and deliberately

registered the disputed domain name in bad faith, especially because the disputed domain name resolves to a website purportedly offering the same services as the Complainant, namely gaming and casino services.

As regards the use in bad faith of the disputed domain name, the Panel notes that the Respondent is trying to attract Internet users to its website by creating likelihood of confusion with the Complainant's trademark as to the disputed domain name's source, sponsorship, affiliation or endorsement.

The above suggests to the Panel that the Respondent intentionally registered and is using the disputed domain name in order to attract Internet users to its website in accordance with paragraph 4(b)(iv) of the Policy.

Furthermore, the Panel considers that the nature of the inherently misleading disputed domain name, which includes the dominant element of the Complainant's trademark, namely "ninja", with the mere addition of the term "kasiino", that is a misspelled version of the second element composing the Complainant's trademark, namely CASINO, further supports a finding of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Based on the available record, the Panel finds the third element of the Policy has been established.

## **8. 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, <ninjakasiino.top>, be transferred to the Complainant.

*/Edoardo Fano/*

**Edoardo Fano**

Sole Panelist

Date: April 3, 2024