

## **ADMINISTRATIVE PANEL DECISION**

Ninja Global Ltd. v. Marc Lester Kasilag, sssgame  
Case No. D2024-2226

### **1. The Parties**

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

The Respondent is Marc Lester Kasilag, sssgame, Philippines.

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

The disputed domain name <ninjacasino.vip> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 30, 2024. On May 31, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 31, 2024, the Registrar transmitted by email to the Center its verification response registrant and contact information for the disputed domain name which differed from the named Respondent (REDACTED FOR PRIVACY, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 3, 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 amended Complaint on June 3, 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 Respondent of the Complaint, and the proceedings commenced on June 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 28, 2024.

The Center appointed Christian Gassauer-Fleissner as the sole panelist in this matter on July 12, 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 gaming and casino company based in Malta.

The Complainant is the owner of several trademarks for NINJACASINO (the “NINJACASINO trademark”), including:

- European Union Trademark Registration NINJACASINO (word mark) No. 015743685, registered on November 28, 2016; and
- European Union Trademark Registration NINJA CASINO (word and figurative mark) No.017754516, registered on May 14, 2018; and

The Complainant is also the owner of the domain name <ninjacasino.com>, registered on December 16, 2010.

The disputed domain name was registered on February 10, 2024. At the time of the decision and when the amended Complaint was filed, the disputed domain name resolved to an active website which is an imitation of the Complainant's official website and displays the NINJACASINO 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.

On the first element of the Policy, the Complainant claims that the disputed domain name is confusingly similar to the NINJACASINO trademark. The disputed domain name consists of the word “ninjacasino” and the Top-Level-Domain (“TLD”) “.vip”. The word element “ninjacasino” is identical to the Complainant's registered rights for NINJA CASINO and NINJACASINO. The only difference between the trademarks and the disputed domain name is the TLD “.vip”. Considering that the Complainant only offers its goods and services online, and part of the protection is made for online gaming and services, the TLD contributes to the risk of confusion.

On the second element of the Policy, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant has not given the Respondent any permission to register the NINJACASINO trademark as a domain name or to use or present an offering of goods and services on the domain under the Complainant's trademarks. Controls made on the website under the disputed domain name have concluded that there is no evidence of any legitimate use of the disputed domain name for any activity or business related to “ninjacasino”. There is no evidence in the present record that the Respondent is commonly known by the disputed domain name, enabling it to establish rights or legitimate interest in “ninjacasino”. There is no evidence found showing that the Respondent has been commonly known by the disputed domain name or is making a legitimate non-commercial or fair use of the disputed domain name. In addition, the usage of the disputed domain name strongly suggests that the disputed domain name was registered with the NINJACASINO trademark in mind and to commercially profit from misleading consumers searching for information about the Complainant's business. At the time of filing of the Complaint, the disputed domain name resolves to a website which is a copycat version of the Complainant's official website. It is evident that the disputed domain name is being utilized as a platform for scams, jeopardizing the reputation and trustworthiness of the Complainant's trademark. The disputed domain name clearly refers to the Complainant, its trademarks and services. The

Complainant did not authorize the registration of such domain name nor the website. The use of the Complainant's trademark directly related to the Complainant's business, reflects the Respondent's intention to create an association, and a subsequent likelihood of confusion, with the Complainant and its trademarks in Internet users' mind. As such, the Respondent is merely seeking, and has sought, to exploit the Complainant's trademark in which the Complainant has rights and create a commercial gain for itself on the Internet. There is no reason to believe that the disputed domain name does not refer to anything but the Complainant and its trademarks and services. Furthermore, the Complainant did not authorize the registration of such domain name nor website.

On the third element of the Policy, the Complainant asserts that the Respondent has registered and used the disputed domain name in bad faith. The Complainant's trademarks were registered well before the Respondent became the owner of the disputed domain name. The Complainant has been using the trademarks long before the disputed domain name was registered. This implies knowledge of the Complainant's trademarks and business. It is therefore obvious that the Respondent was aware of the Complainant's trademarks and business when registering the disputed domain name. Further, the disputed domain name is confusingly similar to the Complainant's registered rights. The Respondent is trying to take advantage of the trademarks to draw traffic to the website under the disputed domain name. Therefore, the Complainant submits that the disputed domain name has been registered to commercially profit from the likelihood of confusion between the trademark and the disputed domain name. Further, the Complainant sent a Cease-and-Desist letter to the Respondent, without any reply despite several reminders. The continued use and registration of the disputed domain name, for the past year, is therefore considered in bad faith. Considering that the Complainant allowed the Respondent to solve the matter amicably, and they actively chose not to reply, the Complainant had no other choice but to initiate the present UDRP proceeding.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

It has been a consensus view in previous UDRP decisions that a respondent's default (i.e., failure to submit a response) would not by itself mean that the complainant is deemed to have prevailed; a respondent's default is not necessarily an admission that the complainant's claims are true (see section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

The Complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the Complaint, namely that:

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

The applicable TLD in a domain name (e.g., “.com”, “.club”, “.nyc”) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

[WIPO Overview 3.0](#), section 1.11.

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. Apart from that, the disputed domain name does not contain any word elements to be taken into account. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7 and 1.11.

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.

The Complainant has provided evidence showing that the disputed domain name previously resolved to an active website which is an imitation of the Complainant’s official website and displays the NINJACASINO trademark.

Panels have held that the use of a domain name for illegal activity (as applicable to this case: impersonation/passing off) can never confer rights or legitimate interests on a respondent.

[WIPO Overview 3.0](#), section 2.13.1.

In addition, UDRP panels have found that domain names identical to a complainant’s trademark carry a high risk of implied affiliation. [WIPO Overview 3.0](#), section 2.5.1.

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.

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 notes that the Complainant's NINJACASINO trademark was registered before the disputed domain name, and particularly considering the previous use to which the disputed domain name was put, the Panel finds that it is more likely than not that the Respondent registered the disputed domain name with knowledge of the Complainant's trademark, which indicates registration in bad faith.

Further, the Complainant sent a Cease-and-Desist letter to the Respondent, without any reply despite several reminders. By this point at the latest, the Respondent should have been aware of the NINJACASINO trademark.

The Complainant contends that the Respondent utilized the website as a platform for scams but has not provided evidence in this regard. However, this matter can remain unresolved. Instead, the Complainant has provided evidence showing that the disputed domain name previously resolved to an active website which is an imitation of the Complainant's official website and displays the NINJACASINO trademark. By using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the NINJACASINO trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of services on the Respondent's website.

Panels have held that the use of a domain name for illegal activity (as applicable to this case: impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <ninjacasino.vip> be transferred to the Complainant.

*/Christian Gassauer-Fleissner/*  
**Christian Gassauer-Fleissner**  
Sole Panelist  
Date: July26, 2024