

ADMINISTRATIVE PANEL DECISION

Ninja Global Ltd. v. Ivan Kozarov, Affiliate EOOD
Case No. D2024-3403

1. The Parties

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

The Respondent is Ivan Kozarov, Affiliate EOOD, Bulgaria.

2. The Domain Name and Registrar

The disputed domain name <ninjacsino.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 20, 2024. On August 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 20, 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 (N/A) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 22, 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 August 25, 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 September 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 22, 2024. The Respondent sent an email communication to the Center on September 1, 2024.

The Center appointed Jeremy Speres as the sole panelist in this matter on October 1, 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 presented evidence of the following trademark registrations:

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

These registrations are in the name of an Estonian entity named “Ninja Global OÜ”. The Complainant supplied no information concerning its relationship with that entity. Nevertheless, in the interests of avoiding the delays associated with a procedural order and moving these proceedings along with due expedition (Rules, paragraph 10(c)) and in accordance with its powers of independent research (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 4.8), the Panel has established, from prior UDRP decisions, that Ninja Global Ltd is a subsidiary of Ninja Global OÜ. See *Elec Games Ltd. v. Nikita KOLESNIKOV*, WIPO Case No. [D2024-1994](#).

Prior UDRP decisions involving the Complainant show that the Complainant operates the domain name <ninjacasino.com>, registered on December 16, 2010. See *Ninja Global Ltd v. Super Privacy Service LTD c/o Dynadot / 王鹏聪*, WIPO Case No. [D2022-2875](#). The Internet Archive reveals that that domain name has been used for an online casino trading as NINJA CASINO since at least as early as 2016.

The disputed domain name was registered on July 29, 2024, and currently does not resolve to an active website. The Complainant’s evidence establishes that the disputed domain name previously redirected to another online casino, named “MEGARICH”, located at the domain name <megarich.com>.

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 Respondent registered and has used the disputed domain name in bad faith to profit from a likelihood of confusion between the Complainant’s NINJA CASINO mark and the disputed domain name.

B. Respondent

The Respondent contends, in its informal response, that the Complainant has not satisfied the elements required under the Policy for a transfer of the disputed domain name. Notably, the Respondent contends that the terms “casino” and “csino” are different, and “ninja” is a generic term over which the Complainant has no exclusive rights. The Respondent claims to have a legitimate interest in using the disputed domain name for unspecified “marketing research purposes”.

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 3.0](#), section 1.7.

The Panel finds that the Complainant has 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 the mark is recognizable 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. A domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by UDRP panels to be confusingly similar to the relevant mark for purposes of the first element. [WIPO Overview 3.0](#), section 1.9. Here, the disputed domain name is almost identical to the Complainant's mark apart from the omission of the letter "a" and is an obvious misspelling of the mark.

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.

For the reasons discussed in relation to bad faith below, it is likely that the Respondent acquired the disputed domain name to take advantage of confusion with the Complainant's mark. The Respondent's acquisition and use of the disputed domain name in these circumstances cannot represent a bona fide offering of goods or services under paragraph 4(c)(i) of the Policy and cannot confer rights or legitimate interests. *Sistema de Ensino Poliedro Vestibulares Ltda., Editora Poliedro Ltda. v. Anonymize, Inc. / STANLEY PACE*, WIPO Case No. [D2022-1981](#).

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.

For the following reasons, the Panel finds that it is more likely than not that the Respondent registered and has used the disputed domain name to take advantage of confusion with the Complainant's mark for the Respondent's commercial gain, falling squarely within paragraph 4(b)(iv) of the Policy.

The Complainant would appear to have been trading under its mark as an online casino for roughly eight years prior to registration of the disputed domain name. Internet searches for the Complainant's NINJA CASINO mark are dominated by results relating to the Complainant. The Panel therefore accepts that the

Complainant's NINJA CASINO mark enjoyed considerable exposure prior to registration of the disputed domain name. It is thus unlikely that the Respondent, operating in the same industry, was not aware of the Complainant and the potential for confusion. The Respondent at least should have known this. [WIPO Overview 3.0](#), section 3.2.2.

The Respondent's use of the disputed domain name to redirect to the website of a casino entitled "MEGARICH" is incongruous with the composition of the disputed domain name itself. Without any explanation from the Respondent, this dissonance calls the Respondent's intentions for the disputed domain name into question.

The disputed domain name is an obvious misspelling of the Complainant's mark. Internet searches for the second-level portion of the disputed domain name return results dominated by the Complainant's offering. At least one third party reviewer of the Complainant has, apparently mistakenly, cited the disputed domain name as the Complainant's own domain name. See "www.casinotopsonline.com/ninja-casino-review". Given the reputability of the Complainant's mark predating registration of the disputed domain name, this suggests an intention to benefit the Respondent from Internet users mistyping the Complainant's own domain name, i.e. classic typosquatting, which is a further indicator of bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Respondent apparently supplied incomplete or false address details in the Whois record for the disputed domain name. The Center's courier indicated that a "bad address" was supplied and that the Center's correspondence could not be delivered to the Respondent. In the circumstances of this case, this suggests an attempt by the Respondent to evade pursuit. *Kabushiki Kaisha Raibudoa v. Kubota, A*, WIPO Case No. [D2001-0817](#).

The Respondent did not meaningfully respond to the Complainant's claims. His reference to unspecified "marketing research purposes" as a justification for registering the disputed domain name is not explained and is somewhat coy. Panels have typically treated a respondent's submission of a so-called "informal response" (merely making unsupported conclusory statements and/or failing to specifically address the case merits as they relate to the three UDRP elements, as in this case) in a similar manner as a respondent default. The Panel thus draws an adverse inference from the Respondent's failure to take part meaningfully in the present proceeding where an explanation is certainly called for. [WIPO Overview 3.0](#), section 4.3.

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 <ninjacino.com> be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: October 10, 2024