

ADMINISTRATIVE PANEL DECISION

Elec Games C1 Limited v. Marten Saar, Toprank OU
Case No. D2024-4350

1. The Parties

The Complainant is Elec Games C1 Limited, Malta, represented by Abion AB, Sweden.

The Respondent is Marten Saar, Toprank OU, Estonia, self-represented.

2. The Domain Names and Registrar

The disputed domain names <netticasino.bet> and <nettikasino.ai> are registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 22, 2024. On October 22, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 22, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names 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 October 24, 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 October 29, 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 October 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 19, 2024. The Respondent sent an email communication to the Center on November 19, 2024, offering to voluntarily transfer the disputed domain name <netticasino.bet> to the Complainant and asking for an extension to respond of four calendar days on the disputed domain name <nettikasino.ai>. On November 20, 2024, the Center granted the Respondent an extension of time until November 23, 2024, and informed the Parties that the Complainant should submit a

request for suspension by November 22, 2024 if the Parties wish to explore settlement options. On November 22, 2024, the Complainant sent an additional submission to the Center.

The Center appointed Theda König Horowicz as the sole panelist in this matter on November 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

The Complainant is a company incorporated in Malta which is active in the field of online gambling. It operates an online casino under the NETTICASINO brand.

The Complainant owns several trademark registrations for NETTICASINO notably:



European Union trademark registration No. 01997666 filed on June 27, 2012, registered on March 26, 2013, in classes 9, 41, and 42; and

NETTICASINO, European Union trademark registration No. 10997054 filed on June 27, 2012, registered on December 26, 2013, and protecting products and services of classes 9, 41, and 42.

The Complainant's online casino is available through the <netticasino.com> domain name which was registered on February 9, 2004.

The disputed domain names, <netticasino.bet> and <nettikasino.ai> were registered on June 25, 2024. At the time of the filing of the Complaint, the disputed domain names resolved to pay-per-click ("PPC") pages displaying various sponsored links.

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.

Firstly, the Complainant contends that the disputed domain name <netticasino.bet> is identical and the disputed domain name <nettikasino.ai> is confusingly similar to its NETTICASINO trademark, because the trademark is recognizable within them. In particular, the disputed domain name <netticasino.bet> entirely contains the NETTICASINO trademark of the Complainant. Furthermore, the disputed domain name <nettikasino.ai> incorporates a misspelled form of the Complainant's trademark NETTICASINO by replacing the letter "c" by the letter "k". The Complainant's trademark NETTICASINO nevertheless remains clearly recognizable.

Secondly, the Complainant submits that the Respondent has no rights or legitimate interests in respect with the disputed domain names for several reasons. There is no evidence that the Respondent is known by the disputed domain names or owns any corresponding registered trademark. Furthermore, the structure of the disputed domain name <nettikasino.ai> incorporating a misspelled form of the Complainant's trademark NETTICASINO reflects the Respondent's intention to create an association and a subsequent likelihood of confusion with the Complainant.

Thirdly, the Complainant contends that the disputed domain names have been registered in bad faith notably because:

- the Respondent has never been authorized by the Complainant to register the disputed domain names;
- the structure of the disputed domain names show that the Respondent registered them having the Complainant and its trademarks in mind;
- at the time of the filing of the Complaint, the disputed domain names resolved to PPC pages displaying various sponsored links such as “Swisscasino”, “Games to Win Real Money” and “Best Online Casino promotions” related to the Complainant’s activities, that is related to the online casino industry;
- at the time of the filing of the amended Complaint, the disputed domain names were passively held.

The Complainant claims that the disputed domain names were still being used in bad faith for the above-mentioned reasons. Additionally, the Complainant alleges that there are no indications of any good faith intention of use, the Complainant sent a cease-and-desist letter to the Respondent, to which the Respondent did not reply, and the Respondent tried to conceal its identity regarding the ownership of the disputed domain names by using a privacy service when registering these. Moreover, active MX records are associated with the disputed domain names.

B. Respondent

The Respondent took position in an email where it indicated its willingness to voluntarily unregister or transfer the disputed domain name <netticasino.bet>. Regarding the disputed domain name <nettikasino.ai>, the Respondent contends that:

- the Complainant does not hold a registered trademark for “nettikasino”;
- the term “nettikasino” is a generic term commonly used in the Finnish language;
- the brand NETTICASINO is a misspelling of the Finnish word “nettikasino”;
- the Complainant does not possess an online gambling license to legally operate under the name NETTICASINO in Finland or Estonia.

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

The Complainant has shown rights in respect of the trademark NETTICASINO 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 <netticasino.bet>. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

With regard to the disputed domain name <nettikasino.ai>, the Panel finds that the Complainant’s NETTICASINO mark is recognizable. Indeed, the disputed domain name <nettikasino.ai> is composed of the same two terms “netti” and “kasino”, in the same order than in NETTICASINO. The fact that “kasino” is spelled in the disputed domain name with a “k” rather than a “c” as in the Complainant’s trademark does not change the confusing similarity. In this regard, the Panel notes that a domain name which consists of a

common, obvious, or intentional misspelling of a trademark is considered to be confusingly similar to the relevant mark for purposes of the first element. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 1.9.

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 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, but only relies on an allegation according to which the Complainant would not possess an online gambling license to legally operate under the name NETTICASINO in Finland or Estonia. Whether true or not, this element is not relevant in the present proceedings and the Respondent has not provided any evidence showing rights or legitimate interests in the disputed domain names, including in the disputed domain name <nettikasino.ai>.

Furthermore, the Panel notes that the Complainant’s rights over NETTICASINO predate the disputed domain names by over a decade and that the disputed domain names carry a risk of Internet confusion.

The fact that the disputed domain names resolved to a PPC webpage providing links to websites offering the same services as those proposed by the Complainant under its NETTICASINO trademark, namely gambling services is another factor showing that the Respondent has no rights or legitimate interests in both disputed domain names.

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 must have known the Complainant’s trademark NETTICASINO when registering the disputed domain names since the NETTICASINO trademark predates these and that they were linked to a webpage offering PPC links to third party websites active in gambling services that is in the same services than those provided by the Complainant. Furthermore, both disputed domain names were registered the same day.

In terms of bad faith use, the Panel notes that the disputed domain names resolved to a PPC webpage providing links to websites offering the same services as those proposed by the Complainant under its NETTICASINO trademark, namely gambling services. Furthermore, the Respondent chose to register both

disputed domain names under a privacy service most likely to conceal its identity which is another indication of bad faith use. [WIPO Overview 3.0](#), section 3.6.

Under the circumstances, 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 <netticasino.net> and <nettikasino.ai> be transferred to the Complainant.

/Theda König Horowicz/

Theda König Horowicz

Sole Panelist

Date: December 20, 2024