

ADMINISTRATIVE PANEL DECISION

Rootz LTD v. Candle Factory
Case No. D2024-4954

1. The Parties

The Complainant is Rootz LTD, Malta, represented by Wilmark Oy, Finland.

The Respondent is Candle Factory, Kazakhstan.

2. The Domain Name and Registrar

The disputed domain name <play-wildz.com> is registered with Spaceship, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 30, 2024. On December 2, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 3, 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 Purposes) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 4, 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 December 4, 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 December 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 8, 2025.

The Center appointed Anna Carabelli as the sole panelist in this matter on January 14, 2025. 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 company established in 2018 in Malta, operating under license of the Malta Gaming Authority. Since at least 2020 the Complainant has offered its online gaming services under the trademark WILDZ through its website at the domain name <wildz.com>.

The Complainant is the owner of several trademark registrations for WILDZ, including the following:

- European Union trademark registration No. 017589813 for WILDZ (word mark), filed on December 12, 2017, and registered on April 25, 2018, in classes 9, 16, 25, 28, 35, 36, 38, 41, 42, and 45;
- European Union trademark registration No. 018071717 for WILDZ (figurative mark), filed on May 24, 2019, and registered on October 8, 2019, in classes 9, 16, 25, 28, 35, 36, 38, 41, 42, and 45;
- International trademark registration No. 1443415 for WILDZ (word mark), registered on June 13, 2018, in class 41.

The disputed domain name was registered on October 14, 2024. According to the Complaint the disputed domain name resolved to an active website including links to a competing online casino named N1 casino ("https://n1casino.com"), as well as a fake advert for the real Wildz casino, which served as a link to the same competing online casino.

At the time of this decision the disputed domain name resolves to an inactive webpage displaying a notice that the site can't be reached.

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 Complainant operates several online casinos offering various online games of chance, and obtained several awards in Malta in its field of business activity. One of Complainant's most successful casinos internationally is named Wildz.
- The disputed domain name is confusingly similar to the Complainant's WILDZ registered trademark.
- The Respondent has no rights or legitimate interests in respect of the disputed domain name since:
 - (i) the Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name, (ii) the Respondent is not commonly known by the disputed domain name, and
 - (iii) the Respondent's use of the disputed domain name is neither a bona fide offering of goods or services nor a legitimate noncommercial or fair use. In this connection the Complainant points out that the disputed domain name resolves to a website which includes links to a competing online casino named N1 casino, as well as a fake advert for the real Wildz casino, acting as a link to the same competing online casino.

- The disputed domain name was registered and is being used in bad faith. The Respondent has registered the disputed domain name which includes WILDZ trademark with an intent to capitalize on the goodwill of the Complainant.

Based on the above the Complainant requests the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (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.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the Complainant's registered trademark WILDZ is reproduced and 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. The addition of the generic Top-Level Domain, such as ".com", is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Although the addition of other terms, here "play", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name 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 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.

Moreover, as noted in Section 6.A above, the disputed domain name incorporates the Complainant’s WILDZ mark in its entirety together with the term “play”, which carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1. Indeed, as per the unrebutted case established by the Complainant, the Respondent has used the disputed domain name to operate a website including links to a competing online casino as well as a fake advert for the real WILZ casino, which served as a link to the same competing online casino. This cannot constitute fair use.

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, in the Panel’s view it is difficult to believe that the Respondent did not have in mind the Complainant’s WILDZ trademark when registering the disputed domain name. The fact that the Respondent has used the disputed domain name following registration, to resolve to a webpage which included a fake advert for the real WILDZ casino, establishes both the Respondent’s actual knowledge of the Complainant’s rights and the Respondent’s intention to take unfair advantage of those rights.

The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website (see section 3.1.4 of the [WIPO Overview 3.0](#)). This is evidence of use in bad faith under paragraph 4(b)(iv) of the Policy.

The fact that the disputed domain name does not currently point to an active website and merely resolves to a webpage stating that the site can’t be reached, does not prevent a finding of bad faith under the passive holding doctrine given the totality of the circumstances in the present case. [WIPO Overview 3.0](#), section 3.3.

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 <play-wildz.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: January 28, 2025