

ADMINISTRATIVE PANEL DECISION

Rootz LTD v. Mcleish Tracy Ann

Case No. D2024-5082

1. The Parties

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

The Respondent is Mcleish Tracy Ann, Canada.

2. The Domain Name and Registrar

The disputed domain name <wheelzcasino.net> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 10, 2024. On December 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 12, 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 (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 13, 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 December 13, 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 December 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 5, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 7, 2025.

The Center appointed Jeremy Speres as the sole panelist in this matter on January 13, 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 an Internet gaming company operating several online casinos, including its WHEELZ casino operated from “www.wheelz.com”, which won the CasinoGrounds 2021 Award for Rising Casino as well as the award for Malta’s Best Rising Star at the MiGEA gaming excellence awards in 2021. The Complainant’s WHEELZ online casino is known for its collaboration with entertainer David Hasselhoff. The Complainant’s reputation in its WHEELZ mark has been recognized by prior UDRP panels. See for example *Rootz LTD v. Mysar Mykhailo, Maksim Konovalov, Jack Russell*, WIPO Case No. [D2023-4882](#).

The Complainant owns trademark registrations for its WHEELZ mark in various jurisdictions, including European Union Trademark Registration No. 018489899 WHEELZCASINO in class 41, having a registration date of October 1, 2021.

The disputed domain name was registered on October 7, 2024, and currently resolves to a website ostensibly offering online casino services prominently entitled “Wheelz Online Casino”, featuring a replica of the Complainant’s colorful WHEELZ logo and featuring imagery of the entertainer David Hasselhoff.

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 disputed domain name was registered and has been used in bad faith in order to capitalize on the Complainant’s goodwill by causing confusion amongst potential customers as to an association with the Complainant’s WHEELZ online casino.

B. Respondent

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

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The entirety of the Complainant’s registered WHEELZCASINO mark is reproduced within the disputed domain name without more, excluding the Top-Level Domain (“TLD”). Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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 general impression created by the website to which the disputed domain name resolves is one of impersonation of the Complainant. UDRP panels have categorically held that the use of a domain name for illegal activity, here impersonation, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Panels have held that the use of a domain name for illegal activity, here impersonation, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Considering the indicators of impersonation apparent on the Respondent’s website highlighted in the Factual Background section above, it is clear that the Respondent intended to impersonate the Complainant. The composition of the disputed domain name, consisting of the Complainant’s identical and reputed mark, strengthens this conclusion. Paragraph 4(b)(iv) of the Policy is thus eminently applicable.

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 <wheelcasino.net> be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: January 17, 2024