

## **ADMINISTRATIVE PANEL DECISION**

Evolution AB v. Dejan Jovic

Case No. D2025-0618

### **1. The Parties**

The Complainant is Evolution AB, Sweden, represented by Zacco Sweden AB, Sweden.

The Respondent is Dejan Jovic, Slovenia.

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

The disputed domain name <evolutionproxy.com> is registered with Porkbun LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 17, 2025. On February 17, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 17, 2025, 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 (Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 19, 2025, 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 February 19, 2025.

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 February 20, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 19, 2025.

The Center appointed Kaya Köklü as the sole panelist in this matter on March 24, 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 Swedish company that was founded in 2006. It develops, produces, markets and licenses business-to-business casino solutions to online and land-based operators worldwide. The Complainant has operations in about 15 jurisdictions across the world with more than 21,000 employees in Europe and North America.

Via a wholly owned subsidiary located in Malta, the Complainant is the owner of the EVOLUTION trademark, which is registered in several jurisdictions as a word and figurative trademark. Among others, the Complainant is the registered owner of the European Union Trademark Registration No. 018315634, registered on October 14, 2022, for EVOLUTION, covering mainly various gambling devices and online casino services as protected in classes 28 and 41.

The Complainant further owns and operates its main website at “www.evolution.com”.

The Respondent is reportedly located in Slovenia.

The disputed domain name was registered on February 6, 2025.

According to the case record, the disputed domain name resolved, at the time of filing of the Complaint, to a website that distributed an API (Application Programming Interface) that allegedly allows to communicate with the Complainant’s software to exchange data, features, and functionality. The associated website neither indicated the Respondent nor provided for any visible disclaimer describing the (lack of) relationship between the Parties.

On February 11, 2025, the Complainant issued an infringement notice to the Respondent and tried to solve the dispute amicably but received no reaction from the Respondent.

#### **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.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel might, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.3.

It is further noted that the Panel has taken note of [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views stated therein.

### **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 Complainant has shown rights in respect of the EVOLUTION trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the EVOLUTION mark is reproduced 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.

Although the addition of other terms, here "proxy", 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.

There is no evidence that the Respondent is commonly known by the disputed domain name, nor are there any circumstances or activities that would establish the Respondent's rights or legitimate interests therein.

Even more, the Panel particularly notes the nature of the disputed domain name, which comprises the Complainant's EVOLUTION trademark in its entirety in combination with the term "proxy". The Panel further notes that the Respondent is allegedly offering an API for the Complainant's EVOLUTION software without identifying the Respondent's identity nor the lack of relationship with the Complainant. In view of the Panel, this clearly indicates the Respondent's awareness of the Complainant and the EVOLUTION trademark and its unfair intent to target the Complainant and its business solution, which does not support the finding of any rights or legitimate interests.

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.

In the present case, the Panel notes that the Respondent must have had the Complainant and its EVOLUTION trademark in mind when registering the disputed domain name. It is obvious to the Panel that the Respondent has deliberately chosen the disputed domain name, which comprises the Complainant's EVOLUTION trademark in its entirety, to target the Complainant and its EVOLUTION software solution. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

With respect to the use of the disputed domain name in bad faith, the Panel finds that the Respondent is using the disputed domain name in order to generate traffic to its own website by misleading third parties in a false belief that the website associated with the disputed domain name may be operated or at least authorized by the Complainant. Particularly, the misleading nature of the disputed domain name and the alleged offering of an API for the Complainant's EVOLUTION software including the lack of any visible disclaimer, is in view of the Panel evidence of the Respondent's bad faith intent to target the Complainant and its services by deliberately creating a likelihood of confusion with the Complainant's EVOLUTION trademark.

Taking all facts of the case into consideration, the Panel finds that the disputed domain name is registered and is being used in bad faith.

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 <evolutionproxy.com> be transferred to the Complainant.

*/Kaya Köklü/*

**Kaya Köklü**

Sole Panelist

Date: April 7, 2025