

## **ADMINISTRATIVE PANEL DECISION**

Novomatic AG v. Kieran Holmes

Case No. D2025-2785

### **1. The Parties**

The Complainant is Novomatic AG, Austria, represented by Salomonowitz Attorneys-at-Law, Austria.

The Respondent is Kieran Holmes, Afghanistan.

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

The disputed domain name <bookofrafun.xyz> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 15, 2025. On July 15, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 16, 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 (Redacted for privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 16, 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 July 17, 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 July 22, 2025. In accordance with the Rules, paragraph 5, the due date for Response was August 11, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 14, 2025.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on August 18, 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 owns trademark registrations for the trademark BOOK OF RA in numerous jurisdictions worldwide such as the following:

1. European Union Trade Mark Registration No. 004451431, registered on May 24, 2006;
2. United Kingdom Trademark Registration No. 00904451431, registered on May 24, 2006.

The disputed domain name was registered on March 11, 2025, and it resolves to a website that cannot be reached. The Complainant asserts that the Respondent uses the disputed domain name for gambling, “pretending to be part of the official Google Play Store” (providing a screenshot of what appears to be a mobile application called “Book of Ra”).

#### **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 is identical or at least confusingly similar to the Complainant’s trademark. The disputed domain name contains the Complainant’s trademark in its entirety. The word “fun” does not eliminate confusing similarity as it describes the services offered.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant did not authorize the Respondent to use its trademark. There is no relationship between the Complainant and the Respondent. The Respondent is not commonly known by the disputed domain name. The disputed domain name is used to offer infringing slot games and illegal gambling.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant’s trademark was registered and its website installed long before the creation of the disputed domain name. This was then copied by the Respondent. The Respondent’s website is used to offer illegal copies of the Complainant’s famous slot games and to provide illegal gambling. It is designed to mislead the Complainant’s customers and offer counterfeit of the Complainant’s goods and services. The Respondent had knowledge of the Complainant and its trademark.

##### **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 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, “fun” 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.

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 Complainant’s trademark was registered almost 20 years before the creation of the disputed domain name. The Complainant alleges that the Respondent’s website is used to offer illegal copies of the Complainant’s famous slot games and to provide illegal gambling. The Panel notes that Complainant has not submitted evidence of the aforementioned allegation. The Panel notes that the disputed domain name resolves to an inactive website. While the Complainant provided a screenshot of what appears to be a mobile application called “Book of Ra” likely available at Google Play Store, the Complainant did not explain the relationship between such screenshot and the disputed domain name.

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.

Panels have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel considers more likely than not that the Respondent must have been aware of the Complainant’s trademark, and notes the composition of the disputed domain name (noting that the term “fun” is frequently used in entertainment and gambling), and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <bookofrafun.xyz> be transferred to the Complainant.

*/Nayiri Boghossian/*

**Nayiri Boghossian**

Sole Panelist

Date: August 21, 2025