

ADMINISTRATIVE PANEL DECISION

Sybo ApS, Fancade AB v. Grace

Case No. D2025-3695

1. The Parties

The Complainants are Sybo ApS, Denmark and Fancade AB, Sweden, represented by Poki B.V., Netherlands (Kingdom of the) (“Netherlands”).

The Respondent is Grace, Viet Nam.

2. The Domain Names and Registrar

The disputed domain names <drivemad.me> and <subwaysurfers.app> are registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 11, 2025. On September 12, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 17, 2025, 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 (Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainants on September 17, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on September 20, 2025.

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 September 23, 2025. In accordance with the Rules, paragraph 5, the due date for Response was October 13, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 14, 2025.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on October 20, 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 first Complainant, Sybo ApS, is a Danish company. The second Complainant, Fancade AB, is a Swedish company. Both Complainants are game developers, and, according to the Complaint, each has granted an exclusive license to the Complainants' representative, a Netherlands company named Poki B.V., to publish their games on mobile and desktop web technology on a platform found at "www.poki.com".

Fancade AB is the owner of European Union Registered Trademark No. 19008643 for the word mark DRIVE MAD, registered on August 28, 2024, in Class 9 (computer games).

The disputed domain name <drivemad.me> was registered on June 15, 2023. The website associated with this disputed domain name includes an unauthorized, playable version of the second Complainant Fancade AB's eponymous video game. Although the registration of this disputed domain name predates the registration of the corresponding trademark, the Complainants assert that the official version of said game was published in August 2022, and show, by reference to an entry from the Internet Archive "Wayback Machine" dated October 1, 2022 featuring said game on Poki B.V.'s platform at <poki.com>, that by this date it had already garnered 120,400 "likes" and 33,800 "dislikes", indicating overall that said game had obtained a significant consumer following in a relatively short space of time, noting also that the first capture of this page by the said Archive was as early as August 27, 2022.

Sybo ApS is the owner of European Union Registered Trademark No. 13218748 for the word mark SUBWAY SURFERS, registered on January 13, 2016, in Classes 9 (computer games), 25 (clothing), and 28 (games and playthings).

The disputed domain name <subwaysurfers.app> was registered on July 8, 2022. The website associated with this disputed domain name includes an unauthorized, playable version of the Complainant Sybo ApS's eponymous video game.

Little is known of the Respondent other than that it appears to be a private individual with an address in Viet Nam.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain names.

Notably, the Complainants contend that their respective trademarks DRIVE MAD and SUBWAY SURFERS are identical to the respective disputed domain names, in that they are each included in their entirety in the respective disputed domain names <drivemad.me> and <subwaysurfers.app> without any other elements, and said trademarks are also used in the respective website content.

The Complainants assert that the publication of their eponymous games predates the date of registration of the disputed domain names, that there is no use of the disputed domain names in connection with a bona fide offering of goods and services, because they offer illegal versions of said games to the public and create the impression of a commercial affiliation with the Complainants when none exists, that the Respondent has no genuine business or trademark corresponding to the disputed domain names, and that the Respondent is

not making a legitimate noncommercial or fair use of the disputed domain names. The Complainants contend that the Respondent aims to generate commercial gain by diverting players from the original and legitimate platforms on which the game can be played, and by benefiting from commercial advertising revenue on the websites associated with the disputed domain names.

The Complainants submit that their respective games are among the most popular on mobile and web platforms, and that their respective trademarks were well-known to the gaming public when the disputed domain names were registered, adding that while the trademark SUBWAY SURFERS was already registered when the disputed domain name <subwaysurfers.app> was registered, the mark DRIVE MAD was not when the disputed domain name <drivemad.me> was registered. The Complainants nevertheless point out that the game “Drive Mad” had been published on Poki B.V.’s platform in August 2022 and had been successful for two months before the disputed domain name was registered. The Complainants add that as the Respondent operates a network of domain names that publish illegal copies of games licensed to Poki B.V., and as “Drive Mad” had become popular when the related disputed domain name was registered, the Respondent must have known of the existence and popularity of such game.

The Complainants submit that the Respondent intentionally attempts to attract players to the disputed domain names for commercial gain by creating a likelihood of confusion with the Complainants’ trademarks, whereby players on the websites associated with the disputed domain names may not know that they are playing illegal copies. The Complainants contend that this cannot be accidental due to the fact that the Complainants’ marks are used in the disputed domain names and illegal copies are published on the associated websites, adding that the disputed domain names link to one another with a view to retaining the Internet traffic.

B. Respondent

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

6. Discussion and Findings

6.1. Preliminary issue: Consolidation of Multiple Complainants

The present Complaint is brought by two apparently unaffiliated companies which have requested the Panel to order consolidation of their respective Complaints. Although unaffiliated, the Complainants have in common the fact that they have exclusively licensed their games to their representative, Poki B.V., and have each granted that company a power of attorney to stop third parties from copying and publishing their games online, including by way of complaints under the Policy.

In considering whether a complaint filed by multiple complainants may be brought, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.1.

Here, the Complainants assert that they have a common grievance against the Respondent, which has engaged in common conduct affecting them, due to the fact that the Respondent has included the titles of their respective games, and corresponding trademarks, as the most distinctive part of the disputed domain names in order to redirect players of such games away from the platform of the exclusive licensee towards illegally copied games, thus reducing revenue for both the Complainants and said licensee.

In the present case, the Panel accepts that the Complainants have a common grievance against the Respondent, and that the Respondent has engaged in common conduct affecting them, given the almost identical facts. The Panel further considers that consolidation is both equitable and procedurally efficient, due to the fact that the Complainants’ substantive arguments are largely identical, in part as a consequence

of the fact that the Complainants' exclusive licensee is the same person, that the Complainants' games are published on said licensee's platform, that the disputed domain names are registered with the same Registrar and share the same registrant, and that the Complainants' respective Complaints each involve a single domain name, the filings are not voluminous, and there is an applicable fee schedule covering the combined Complaints (on this topic, see, for example, *eBay Inc. and PayPal, Inc. v. Noorinet and Linecom*, WIPO Case No. [D2016-0045](#)).

The conduct which is the subject of the Complaint may be considered as affecting each of the Complainants in a similar manner due to the effect which it has upon their licensed games and shared platform in terms of their respective exclusive licenses. The Panel therefore orders consolidation of the Complainants' respective Complaints.

6.2 Substantive Issues

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 Complainants have each 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 that each mark is recognizable within the corresponding disputed domain name. Accordingly, the disputed domain names are identical to the respective mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The applicable Top-Level Domain ("TLD") in a domain name (here ".me" and ".app" respectively), is viewed as a standard registration requirement and as such may be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1. Likewise, the absence of spaces in the disputed domain names is of no consequence as spaces are not permitted in domain names for technical reasons.

Considering the DRIVE MAD trademark specifically, the Panel notes that for the purposes of the first element assessment, it is not necessary that a complainant's trademark predate the registration of the domain name concerned. All that is required is that such rights are in existence at the time the complaint is filed. [WIPO Overview 3.0](#), section 1.1.3.

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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain names. 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 names such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity, here claimed illegal copying and publication for commercial gain of the Complainants' games on websites associated with the disputed domain names (which themselves feature an exact match to the name of the corresponding trademark of the Complainants), can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Respondent has not engaged with the administrative proceeding and has therefore provided no submissions or evidence which might have suggested that it had rights or legitimate interests in the disputed domain names. In the absence of such, the Panel has not been able to identify any potential rights and legitimate interests that the Respondent might have claimed had it chosen to participate in the proceeding.

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 has registered domain names that are identical to the corresponding game and trademark of each of the Complainants and has used these for websites which feature what is alleged, uncontradicted by the Respondent, to be an illegal copy of each such game.

In the case of the disputed domain name <subwaysurfers.app>, the corresponding trademark SUBWAY SURFERS was already registered. The website associated with this disputed domain name features a copy of the corresponding "Subway Surfers" game belonging to the Complainant Sybo ApS. It is clear from said website that the corresponding disputed domain name must have been registered in the knowledge of Sybo ApS's trademark rights and with intent to target these.

In the case of the disputed domain name <drivemad.me>, the corresponding trademark of the Complainant Fancade AB, DRIVE MAD, was not yet registered when the disputed domain name was registered on June 15, 2023. Nevertheless, the website associated with this disputed domain name features a copy of the corresponding "Drive Mad" game belonging to the said Complainant. The Panel is satisfied that by the date that this disputed domain name was registered, the said Complainant had already published its game and had (by October 2022, over six months earlier) gained substantial notoriety for it, based upon the number of "likes" displayed against said game on the archived screenshot of that date on the Poki B.V. platform. The Panel is satisfied therefore that the Respondent was, in this example, targeting the corresponding Complainant's nascent, as yet unregistered, trademark. The content on the website associated with this disputed domain name, featuring as it does the Complainant's game, leaves the Panel in no doubt that the disputed domain name must have been registered in the knowledge of such game (and, presumably, in the awareness of its early success) and with intent to target the unregistered trademark rights that had already arisen in the name of such game in light of its swiftly gained popularity.

Panels have held that the use of a domain name for illegal activity, here, claimed illegal copying and unauthorized publication of the Complainants' computer games, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain names constitutes bad faith under the Policy.

The Respondent has not engaged with the administrative proceeding and has neither addressed the Complainant's contentions on this topic nor brought forth any submissions or evidence which might have suggested that it registered the disputed domain names in good faith. In the absence of such, the Panel cannot identify any matters which the Respondent might have raised in support of its case on this element of 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 <drivemad.me> be transferred to the Complainant Fancade AB and <subwaysurfers.app> be transferred to the Complainant Sybo ApS.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: October 31, 2025