

ADMINISTRATIVE PANEL DECISION

Foundcom Limited v. Admin Leon, Leon
Case No. DIO2024-0042

1. The Parties

The Complainant is Foundcom Limited, Cyprus, represented SIA B&B Services, Latvia.

The Respondent is Admin Leon, Leon, Australia.

2. The Domain Name(s) and Registrar(s)

The disputed domain name <brazino.io> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 14, 2024. On December 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 17, 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 (PRIVACY PROTECT, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 20, 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 22, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 16, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 17, 2025.

The Center appointed Enrique Bardales Mendoza as the sole panelist in this matter on January 21, 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 company that offers online gaming and gambling services globally since 2018.

The Complainant is the owner of multiple registrations for BRAZINO trademark including European Union trademark No. 018731200 for BRAZINO (registered on November 9, 2022); and International trademark No. 1691796 for BRAZINO (registered on July 26, 2022) designated in Brazil, Chile, Colombia, and Mexico.

The disputed domain name was registered on April 23, 2024.

The disputed domain name does not feature any content. It displays an HTTP 403 Forbidden status meaning the access to the resource is denied. The record shows it previously resolved to a website reproducing the Complainant's trademark, the Complainant's look and feel, and purporting to be offering the Complainant's services.

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 confusingly similar to the BRAZINO registered trademark and the additional country code Top-Level Domain ("ccTLD") ".io" to the Complainant's trademark does not prevent a finding of confusing similarity. Also, the Complainant states that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the disputed domain name has been registered and is being used in bad faith by the Respondent.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel must first determine whether the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy.

Lastly, the addition of the ccTLD ".io" to the disputed domain name has no relevance in this case since it is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, a complainant must make at least a prima facie showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent.

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 Respondent has not submitted any response and has not claimed any rights or legitimate interests with respect to the disputed domain name. As per the Complaint, the Respondent was not authorized to register the disputed domain name.

The Panel notes that the Complainant provided evidence of the disputed domain name being used for a website reproducing the Complainant's trademark, look and feel, and purporting to be offering the Complainant's services. The Panel notes that the website coupled with the composition of the disputed domain name would have created a high risk of implied affiliation, impersonation, or endorsement.

The Panel finds the second element of the Policy has been established.

C. Registered or 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 likely registered the disputed domain name to intentionally attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark. According to the Complainant's Annexes 5 and 6, the disputed domain name used to offer the same or similar services to the Complainant by copying several elements from the Complainant's official website such as the logo, images, language, among others.

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.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off) constitutes bad faith. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes 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, <brazino.io> be transferred to the Complainant.

/Enrique Bardales Mendoza/

Enrique Bardales Mendoza

Sole Panelist

Date: February 3, 2025