

ADMINISTRATIVE PANEL DECISION

Elec Games Ltd. v. elopec ring
Case No. D2024-2523

1. The Parties

The Complainant is Elec Games Ltd., Malta, represented by Abion AB, Sweden.

The Respondent is elopec ring, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <boost-casino.app> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 20, 2024. On June 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 20, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 24, 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 June 24, 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 July 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on July 24, 2024.

The Center appointed Indrek Eelmets as the sole panelist in this matter on August 13, 2024. 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 Maltese company active in the field of online gaming, betting, and casino services. The Complainant operates one of its online casino and gaming websites under the domain name <boostcasino.com> through its Estonian sister company Ninja Global OÜ.

The Complainant is the owner of several trademark registrations for BOOST CASINO in the European Union, United Kingdom and Norway:

- European Union Trade Mark BOOST CASINO, No. 017754681, registration date May 18, 2018, in classes 9, 38, and 41;
- United Kingdom Trademark BOOST CASINO, No. UK00917754681, registration date May 18, 2018, in classes 9, 38, and 41;
- Norwegian Trademark Registration BOOST CASINO, No. 323875, registration date September 30, 2022, in class 41.

The disputed domain name was registered on March 28, 2024. At the time this Complaint was submitted, the disputed domain name resolved to a website that appears to offer online gaming services under the BOOST CASINO mark. The website displays text in Estonian related to gaming services. It also contains design elements visually identical and similar to the Complainant's website. When using the Respondent's website, the Internet users are transferred to a page that is marked as unsafe and, according to an Internet browser warning, the page has been reported for "containing phishing threats".

Before filing the Complaint, the Complainant sent a cease and desist letter to the Respondent to find an amicable solution. The Respondent did not reply to the Complainant's letter.

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 confusingly similar to the earlier trademark since it includes the BOOST CASINO trademark in its entirety.

Further, the Complainant contends that the Respondent lacks rights or legitimate interests in the disputed domain name and relies on the following:

- The Complainant has not permitted the Respondent to use its trademark as a domain name, or to offer goods and services under the trademark.
- The Respondent is not commonly known through the disputed domain name and is not making a legitimate noncommercial or fair use of the disputed domain name.
- The usage of the disputed domain name strongly suggests that it was registered with the Complainant's trademark in mind and to commercially profit from misleading consumers searching for information about the Complainant's business.

Finally, the Complainant contends that the Respondent has registered and is using the disputed domain name in bad faith because:

- The trademarks are earlier than the disputed domain name.
- The Respondent is trying to take advantage of the Complainant's trademark to draw traffic to the Respondent's website. Therefore, the disputed domain name has been registered to commercially profit from the likelihood of confusion between the trademark and the disputed domain name.
- The Respondent's website has been reported for "containing phishing threats". This is an additional indication of bad faith and a fact that puts the Complainant's trademarks at risk of being tarnished.

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 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. Furthermore, the Panel finds that the composition of the disputed domain name carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for illegal activity, here claimed phishing, 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.

In the present case, the Panel notes that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

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 held that the use of a domain name for illegal activity, here claimed phishing, 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 name constitutes bad faith under the Policy.

Considering that the Respondent's website is visually similar to the Complainant's website, and also noting the composition of the disputed domain name, the Panel finds it most likely that the Respondent registered the disputed domain name with prior knowledge of the Complainant and its mark in an attempt to take advantage of such mark.

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 <boost-casino.app> be transferred to the Complainant.

/Indrek Eelmets/

Indrek Eelmets

Sole Panelist

Date: August 27, 2024