

WIPO Arbitration and Mediation Center
Case No.: DNL2021-0031
Date: 7 August 2021

1. The Parties

The Complainant is Stakelogic B.V., the Netherlands, represented by Schenkeveld Advocaten, the Netherlands.

The Respondent is Octopus Hosting, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <stakelogiccasinos.nl> (the “Disputed Domain Name”) is registered with SIDN through the Registrar Company B.V.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 14, 2021. On the same day, the Center transmitted by email to SIDN a request for registrar verification in connection with the Disputed Domain Name. On June 15, 2021, SIDN transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center verified that the Complaint satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on June 17, 2021. In accordance with the Regulations, article 7.1, the due date for Response was July 7, 2021. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 8, 2021.

On July 11, 2021, the Center sent a further verification request to the Registrar regarding the identity of the Respondent; the Center received no further disclosures of contact details for the Respondent.

The Center appointed Thijs van Aerde as the panelist in this matter on July 24, 2021. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

4. Factual Background

The Complainant is a developer of online casino slot games, offering its products and services via its website at the domain name <stakelogic.com>.

The Complainant holds various trademark registrations, including:

- STAKELOGIC, European Union trademark, registered on April 20, 2015, registration No. 013321864; and,

- STAKELOGIC (figurative), European Union trademark, registered on April 20, 2015, registration No. 013387634;

hereinafter jointly referred to as the “Trademarks”.

SIDN informed the Center that the Disputed Domain Name was registered by the Respondent on March 5, 2019. The Disputed Domain Name resolves to a website offering paid casino games.

5. Parties’ Contentions

A. Complainant

The Complainant’s contentions may be summarized as follows.

The Complainant contends that the Disputed Domain Name is confusingly similar to the Trademarks.

The Complainant states that the Respondent is not using the Disputed Domain Name in connection with a bona fide offering of goods or services, as it is illegally providing online games. The Complainant further argues that the Respondent misleads Internet users into believing that it is offering the Complainant’s products. Therefore, the Respondent lacks any rights to or legitimate interests in the Disputed Domain Name.

The Complainant asserts that the Respondent is using the Disputed Domain Name for the purpose of providing casino games using the Disputed Domain Name, which incorporates the Trademarks and is detrimental to the Complainant’s reputation. The Complainant concludes that the registration and use of the Disputed Domain Name must be considered in bad faith under the Regulations.

B. Respondent

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

6. Discussion and Findings

Pursuant to article 2.1 of the Regulations the Complainant must prove each of the following three elements:

a. the Disputed Domain Name is identical or confusingly similar to:

I) a trademark or trade name protected under Dutch law in which the Complainant has rights; or

II) a personal name registered in the General Municipal Register (Gemeentelijke Basisadministratie) of a municipality in the Netherlands, or the name of a Dutch public legal entity or the name of an association or foundation registered in the Netherlands under which the Complainant undertake public activities on a permanent basis; and

b. the Respondent has no rights to or legitimate interests in the Disputed Domain Name;
and

c. the Disputed Domain Name has been registered or is being used in bad faith.

As the Respondent has not filed a response, the Panel shall rule on the basis of the Complaint. In accordance with article 10.3 of the Regulations, the Complaint shall in that event be granted, unless the Panel considers it to be without basis in law or in fact.

A. Identical or Confusingly Similar

The Complainant established that it has rights in the Trademarks, registered in the European Union and thus protected under Dutch law. The Panel finds the Disputed Domain Name is confusingly similar to this trademark. It entirely incorporates the trademark STAKELOGIC plus the term “casinos”, which refers to the Complainant’s business.

The country code Top-Level Domain “.nl” may be disregarded when assessing the similarity between the domain name on the one hand, and the relevant trademark on the other hand (see, Roompot Recreatie Beheer B.V. v. Edoco LTD, [WIPO Case No. DNL2008-0008](#)).

The Panel finds that the Complainant has fulfilled the requirements of article 2.1(a) of the Regulations.

B. Rights or Legitimate Interests

Pursuant to article 2.1(b) of the Regulations, the onus of establishing the Respondent’s lack of rights to or legitimate interests in the Disputed Domain Name falls on the Complainant. It is well established under the Regulations that inherent difficulties arise for a complainant in proving a negative, especially as relevant information concerning (lack of) rights to or legitimate interests is in the possession of a respondent. Consequently, it is generally sufficient for a complainant to raise a prima facie case against the respondent under this element, shifting the evidential burden to the respondent to rebut that prima facie case. See, *Auto 5 v. E. Shiripour*, [WIPO Case No. DNL2008-0027](#), and WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1.

The Complainant contends that it has not authorized or licensed the Respondent to use the Trademarks or to register the Disputed Domain Name. Furthermore, the Complainant’s rights in the Trademarks predate the Respondent’s registration of the Disputed Domain Name. Thus, the Panel finds that the Complainant has established a prima facie case that the Respondent does not have rights to or legitimate interests in the Disputed Domain Name, whereas the Respondent has failed to come forward with any evidence to the contrary and meet its burden of production.

The Panel finds that the Respondent has no rights to or legitimate interests in the Disputed Domain Name and that the Complainant has fulfilled the requirements of article 2.1(b) of the Regulations.

C. Registered or Used in Bad Faith

The Complainant asserts that the Respondent has registered and is using the Disputed Domain Name for commercial gain in order to mislead Internet users into believing that the Disputed Domain Name is operated by or affiliated with the Complainant. The evidence submitted to the Panel shows that throughout the website at the Disputed Domain Name reference is made to the Trademarks. The website at the Disputed Domain Name further includes an “About Stakelogic” section in which information is provided in Dutch about the Complainant. The information describes the Complainant as a developer of casino games and falsely claims that the games provided on the website at the Disputed Domain Name are created by the Complainant.

Furthermore, the website at the Disputed Domain Name makes use of the Complainant’s figurative trademark, further adding to potential confusion among Internet users. The fact that the Respondent uses the Disputed Domain Name to offer products and services relating to the casino industry under the Trademarks, in combination with the use of the Complainant’s figurative trademark on the website at the Disputed Domain Name evidences that the Respondent knew of the Complainant and its Trademarks. Thus, it is evident that the Respondent registered and is using the Disputed Domain Name for commercial gain by seeking reputational advantage through the use of the Trademarks.

The Panel finds that the requirement under article 2.1(c) of the Regulations has also been met.

7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Disputed Domain Name <stakelogiccasinos.nl> be transferred to the Complainant.

Thijs van Aerde
Panelist

¹ In view of the fact that the Regulations are to an extent based on the Uniform Domain Name Dispute Resolution Policy (“UDRP”), it is well established that both cases decided under the Regulations and cases decided under the UDRP, and therefore WIPO Overview 3.0, may be relevant to the determination of this proceeding (see, e.g., Aktiebolaget Electrolux v. Beuk Horeca B.V., WIPO Case No. DNL2008-0050).