Decision for dispute CAC-UDRP-108610

Case number	CAC-UDRP-108610
Time of filing	2026-05-12 10:09:26
Domain names	winspiritaustralia.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Bovive LTD

Respondent

Name	Oleksii Ivanov

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the WS WIN SPIRIT trademark.

In particular, the Complainant is the owner of the following trademark registrations for WS WIN SPIRIT:

- Australian trademark registration No. 2473926 for WS WIN SPIRIT (word/device), registered on March 21, 2025;

- Estonian trademark registration No. 63557 for WS WIN SPIRIT (word/device), registered on October 7, 2024.

The Complainant also owns domain name <winspirit.com>, registered on January 14, 2013, which is used for its principal website.

FACTUAL BACKGROUND

The Complainant operates online casino platform known as "WS Win Spirit" or "Win Spirit" on the domain name <winspirit.com>. The Complainant provides online gambling services under WS WIN SPIRIT trademark since 2022. The Complaint has also received several recognitions in online gambling industry.

The disputed domain name was registered on July 31, 2025, and resolves to a website operating under the name "Win Spirit Casino AU", which appears to be an online gambling platform. The website prominently uses a variation of the Complainant's WS WIN SPIRIT (word/device) trademark, adding the terms "Casino" and "AU" as well as a stylized depiction of the Australian flag. All action buttons on the website to which the disputed domain name resolves (such as "Login", "Register", and "Get a Bonus") redirect Internet users to third-party online gambling websites.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be

transferred to it. In particular, the Complainant argues that the disputed domain name is confusingly similar to its WS WIN SPIRIT trademark. Despite the fact that the Complainant only has word/device trademark, the dominant verbal element "WIN SPIRIT" is reproduced in its entirety within the disputed domain name, and in accordance with well-established UDRP practice this is sufficient to establish confusing similarity. Furthermore, the Complainant's trademark is recognizable within the disputed domain name and the addition of the geographic term "Australia" would not prevent a finding of confusing similarity under the first element in accordance with Section 1.8 of WIPO Overview of WIPO Panel Views on Select UDRP Questions (“WIPO Overview 3.1”). It is also well-established that Top-Level-Domain suffix ".com" is generally disregarded for the purpose of confusing similarity assessment under paragraph 4(a)(i) of the Policy.

Regarding the second UDRP element, the Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that it is not related to the Complainant in any way. The Complainant has never licensed, authorized or otherwise permitted the Respondent to make any use of the Complainant's trademark, or any variation thereof, in a domain name or otherwise. The Respondent is also not commonly known by the disputed domain name. The disputed domain name resolves to an active website operated as an apparent online casino under the name "Win Spirit Casino Australia", which reproduces the design and visual identity of the Complainant's official platform on the website <winspirit.com>. Such use does not constitute a bona fide offering of goods or services within the meaning of the Paragraph 4(c)(i) of the Policy.

With reference to the circumstances evidencing bad faith, the Complainant states that the Respondent deliberately registered the disputed domain name that comprises the dominant verbal element of the Complainant's WS WIN SPIRIT trademark. Furthermore, the disputed domain name also contains the word "Australia" directly referencing one of the jurisdictions where the Complainant has registered trademark rights. The Respondent had actual knowledge of the Complainant and its trademark, considering that the website to which the disputed domain name resolves reproduces the design and visual identity of the Complainant's official website, as well as the device elements of the Complainant's trademark. The use of the disputed domain name indicates that the Respondent registered the disputed domain name to attract internet users for commercial gain by creating a likelihood of confusion with the Complainant's trademark within the meaning of paragraph 4(b)(iv) of the Policy.

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy stipulates that the complainant must prove each of the following:

- that the domain name registered by the respondent is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- that the respondent has no rights or legitimate interests in respect of the domain name; and
- that the domain name has been registered and is being used in bad faith.

I. 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, as stipulated in section 1.7 of WIPO Overview 3.1.

The Complainant's WS WIN SPIRIT trademark is a word/device mark that consists of the verbal element WS WIN SPIRIT written in stylized letters where the portion WS is highly stylized and placed in front of a diamond shape. The panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant trademark. To the extent that design (or figurative/stylized) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. Such design elements may be taken into account in limited circumstances, e.g., when the domain name comprises a spelled-out form of the relevant design element (WIPO Overview 3.1, section 1.10).

The Panel, therefore, finds that the verbal element WS WIN SPIRIT is the dominant textual component of the Complainant's mark and is sufficient to establish standing under the first element and that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy (WIPO Overview 3.1, section 1.2.1).

Within the verbal element of the Complainant's trademark, the Panel finds that the portion 'WIN SPIRIT' is the dominant and distinctive component. Therefore, the dominant part "WIN SPIRIT" of the verbal element of the Complainant's WS WIN SPIRIT trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the Complainant's trademark for the purposes of the Policy (WIPO Overview 3.1, section 1.7).

Although the addition of other terms here, "australia" may bear on the assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark for the purposes of the Policy (WIPO Overview 3.1, section 1.8).

In addition, it is well established that ".com", as a gTLD, is disregarded in the assessment of confusing similarity between the disputed domain name and the trademark (WIPO Overview 3.1, section 1.11.1).

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

II. 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 the 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.

Having reviewed the available record, the Panel finds that 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.

In particular, the Panel notes that there appears to be no relationship between the Respondent and the Complainant and that the Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant's WS WIN SPIRIT trademark. There appears to be no element from which the Panel could infer the Respondent's rights or legitimate interests in the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The disputed domain name resolves to a website under the name "Win Spirit Casino AU", which appears to be an online gambling platform. The website prominently uses a variation of the Complainant's WS WIN SPIRIT (word/device) trademark, to which the terms 'Casino' and 'AU' and a stylized depiction of the Australian flag have been added. The website also has a similar appearance to the official website of the Complainant. All action buttons on the website to which the disputed domain name resolves (such as "Login", "Register", and "Get a Bonus") redirect Internet users to third-party online gambling websites. Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation and passing off) can never confer rights or legitimate interests on a respondent (WIPO Overview 3.1, section 2.13.1).

The Panel also finds that the composition of the disputed domain name, which contains the dominant verbal element WIN SPIRIT of the Complainant's WS WIN SPIRIT trademark in combination with the term "australia" (i.e. one of the countries where the Complainant has registered trademark rights and conducts its business) carries a high risk of implied affiliation (WIPO Overview 3.1, section 2.5.1).

Having in mind the above, the Panel finds the second element of the Policy has been established.

III. 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.

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 (see WIPO Overview 3.1, section 3.2.1).

In the present case, the Panel considers that the Respondent must have been aware of the Complainant and its WS WIN SPIRIT trademark. Namely, the first registration and use of the WS WIN SPIRIT trademark predate the registration of the disputed domain name by several years, making it unlikely that the Respondent was not aware of the Complainant's trademark at the time of registration of the disputed domain name. Furthermore, the composition of the disputed domain name is such that it corresponds to the Complainant's business activities. Such composition and the content of the website to which the disputed domain name resolves, leave no room for doubt on the Respondent's knowledge of the Complainant and its trademark and evidence that the Respondent actually had the Complainant in mind when registering the disputed domain name.

Due to the above, the Panel finds that the disputed domain name has been registered in bad faith.

As indicated above, the disputed domain name resolves to a website under the name "Win Spirit Casino AU", which appears to be an online gambling platform. The website prominently uses a variation of the Complainant's WS WIN SPIRIT (word/device) trademark, to which the terms 'Casino' and 'AU' and a stylized depiction of the Australian flag have been added. The website also has a similar appearance to the official website of the Complainant. All action buttons on the website to which the disputed domain name resolves (such as "Login", "Register", and "Get a Bonus") redirect Internet users to third-party online gambling websites. Such use of the disputed domain name indicates that the Respondent attempted to impersonate the Complainant and to take advantage of the Complainant and its trademark. Panels have held that the use of a domain name for illegitimate activity (here, claimed impersonation and passing off) constitutes bad faith (WIPO Overview 3.1, section 3.4).

In accordance with the above, 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 disputed domain name has been both registered and is being used in bad faith, and consequently that the Complainant has established the third element of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **winspiritaustralia.com**: Transferred

PANELLISTS

Name	**Stefan Bojovic**

DATE OF PANEL DECISION 2026-06-23

Publish the Decision