



## DECISION OF THE THIRD-PARTY DECIDER

SA TK / Jako Hyvonen

Case no. 444224 / madisoncasinos.be and casino-madison.be

### 1. The Parties:

#### 1.1 Complainant:

SA TK  
Rue des Artisans 2  
6730 Tintigny  
Belgium

*Represented by:*

WERY Etienne, Attorney at law  
Avenue du Martin Pêcheur 13/25  
1170 Brussels  
Belgium

*Hereafter referred to as "the Complainant".*

#### 1.2 Domain Name Holder:

Mr. Jaakko HYVONEN  
Unionkatu 81  
43100 Saarijavi  
Finland

*Hereafter referred to as "The Domain Name Holder".*

### 2. Domain name:

Domain name: madisoncasinos.be  
Registered on: April 3 2024

and

Domain name: casino-madison.be  
Registered on: April 3 2024

*Hereafter together referred to as "the Disputed Domain Names".*

## 3. Procedure

On 26 September 2024, the Complainant filed a complaint with the Belgian Center for Arbitration and Mediation (hereinafter referred to as “CEPANI”).

The Complainant requests that the Domain Names are to be transferred in accordance with the applicable terms and conditions of domain name registrations under the “.be” domain operated by DNS BE (hereafter referred to as the “Policy”) and in accordance with the CEPANI rules for domain name dispute resolution (hereafter the “Rules”).

On 22 October 2024, pursuant to Article 7.2 of the Rules, the Third-Party Decider was appointed to settle the dispute involving the Disputed Domain Names.

CEPANI duly received the declaration of independence of the Third-Party Decider.

On 29 October 2024, pursuant to Article 13 of the Rules, the deliberations were closed.

## 4. Background information and facts

4.1 The Complainant offers offline and online gambling services in Belgium under the trade name “Madison Casino”.

The Complainant is entrusted with valid exclusive licenses granted by the Belgian State (for ex. its website refers to the Nr. B+3320), through the Belgian Gaming Commission, for operating online and offline gambling activities. Such licenses are mandatory for any operator seeking to offer offline and online legal gambling activities in Belgium.

The Complainant is *inter alia* the holder of the domain name <www.madisoncasino.be>, registered on March 5, 2019, and offers its services via the website to which the domain name is associated (<https://madisoncasino.be/fr/games>). This domain name is specified in the Complainant’s exclusive license granted by the Belgian Gambling Commission.

The Complainant offers its services using the following signs:



The signs are not registered as trade marks.

4.2 The Domain Name Holder is a Finnish natural person with unknown activities.

The Disputed Domain Names <madisoncasinos.be> and <casino-madison.be> were registered on April 3, 2024.

The Disputed Domain Names are not actively used by the Domain Name Holder. A web search on <madisoncasinos.be> and <casino-madison.be> gives no results.



## 5. Position of the parties

### 5.1 Position of the Complainant

The Complainant requests that the Disputed Domain Names should be transferred to him. The Complainant argues that all the conditions for the Domain Names transfer as defined in the Policy are fulfilled.

According to the Complainant:

- The Disputed Domain Names are identical or similar enough to the Complainant's trade name to cause confusion;
- The Domain Name Holder has no rights or legitimate interests in the Disputed Domain Names;
- The Disputed Domain Names were registered *or* are being used in bad faith.

The Complainant asserts its established rights to the name "Madison Casino" through exclusive licenses granted by the Belgian Gaming Commission, a state entity. These licenses explicitly specify the Complainant's trade name and domain name.

The Complainant contends that adding an "s" to make "casino" plural (in <madisoncasinos.be>) or reversing the terms (in <casino-madison>) does not significantly alter the name, and that despite these changes, the Disputed Domain Names still create confusion.

The Complainant argues further that the inclusion of the generic term "casino" in the Disputed Domain Names increases the risk of confusion.

The Complainant argues that the Domain Name Holder has no rights or legitimate interests in the Disputed Domain Names and is acting in bad faith.

The Complainant alleges that the Domain Name Holder has no connection to casino-related activities. First, the Domain Name Holder has no license from the Belgian Gaming Commission to operate gambling activities. This suggests the absence of rights or legitimate interests and indicates a parasitic intent to benefit from the reputation associated with the Complainant's activities in gambling.

Second, the Complainant highlights the lack of actual use of the Disputed Domain Names (no trace of activity resulting from an online search around the Disputed Domain Names). This further indicates that the Domain Name Holder does not aim at offering services in good faith, but probably aims to monetize its reservation of the Disputed Domain Names.

### 5.2 Position of the Domain name holder

The Domain Name Holder did not submit any response following the complaint.

## 6. Discussion and findings

Pursuant to Article 16.1 of the *CEPANI rules for domain name dispute resolution*, the Third-Party Decider shall rule on domain name disputes with due regard for the Policy and the CEPANI rules for domain name dispute resolution.

Pursuant to Article 10b (1) of the Policy, the Complainant must provide evidence of the following:

- “ the Disputed Domain Name is identical or confusingly similar to a trade mark, a tradename, a social name or corporation name, a geographical designation, a name of origin, a designation of source, a personal name or name of a geographical entity in which the Complainant has rights; and
- the Domain Name Holder has no rights or legitimate interests in the domain name; and
- the Disputed Domain Name has been registered or is being used in bad faith.”

## 6.1 The Domain Name is identical or confusingly similar to trade marks in which the Complainant has rights

6.1.1. The Complainant is the right holder of three licenses from the Belgian Gaming Commission that exclusively allow him to operate gambling activities under the trade name “Madison Casino” and to operate online gambling activities under the domain name <www.madisoncasino.be>.

The complainant is the holder of the above-mentioned domain name, registered on March 5, 2019.

Further, the Complainant represents six physical gaming halls of the eighty licenses granted by the Belgian Gaming Commission and is known to the public and the authorities to operate under the trade name “Madison Casino”.

6.1.2. On April 3, 2024, the Domain Name Holder registered the Disputed Domain Names (<madisoncasinos.be> and <casino-madison.be>).

6.1.3. In the case at hand, the Third-Party Decider rules that the Disputed Domain Names are at least confusingly similar to the tradename in which the Complainant has rights.

The core terms of both the trade name “Madison Casino” and the Disputed Domain Names are identical. The minor differences between the names, such as the addition of an “s” to form “madisoncasinos.be” or the reversal of terms in “casino-madison.be,” are insufficient to establish any meaningful distinction and therefore do not permit to conclude there is no similarity.

In this case, both Disputed Domain Names directly refer to the Complainant's trade name. The association between the used terms and the Complainant's operations in the gambling sector links the Disputed Domain Names to the Complainant's business. As a result, the public is more likely to mistakenly associate the Disputed Domain Names with the Complainant, thereby increasing the likelihood of confusion.

Considering the above, the Third-Party Decider rules that the first condition of Article 10b (1) of the Policy is met.

## 6.2 The Domain name holder has no right or legitimate interests in the Domain Name

6.2.1. According to article 10b (1) (ii) of the Policy, the Complainant is required to demonstrate that the Domain Name Holder lacks any rights or legitimate interests in the Disputed Domain Names.

It is generally accepted that, due to the difficulty of proving a negative fact, the complainant only needs to present a *prima facie* case showing that the domain name holder has no rights or legitimate interests. Once this is established, the burden of proof shifts to the domain name holder, who must then provide relevant evidence to prove its rights or legitimate interests in the domain name.<sup>1</sup>

6.2.1. As the case at hand concerns the operation of strictly regulated activities of gaming and particularly online gaming, it is relevant that to run an online casino in Belgium, any business operator must obtain a license from the Belgian Gaming Commission. The Domain Name Holder does not appear on the

---

<sup>1</sup> CEPANI case nr. 44233 “piperheidsieck.be”.

list of licensed operators. Hence, it cannot legally operate offline, nor online gambling activities targeted at Belgian consumers.

The Domain Name Holder has no known affiliation with the Complainant or the casino industry in general, and there is no evidence that he has been involved in any legitimate casino-related activities.

Further, the Domain Name Holder does not seem to make any legitimate, non-commercial or otherwise fair use of the Disputed Domain Names as the latter are not linked to any active website. This, combined with the strict regulatory environment governing gambling in Belgium, sufficiently establishes that the Domain Name Holder has no right or legitimate interests in the Disputed Domain Names.

Considering the above, the Third-Party Decider rules that the second condition of Article 10b (1) of the Policy is met.

## 6.3 The Holder's Domain Name has been registered or is being used in bad faith

6.3.1 The evidence of registration or use in bad faith of a domain name can be provided by the circumstances mentioned in the exhaustive list under Article 10b (2) of the Policy which provides that:

- circumstances indicating that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the complainant who is the owner of the trade mark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of the geographical entity, or to a competitor of the complainant, for a price that exceeds the costs that the registrant can show are directly related to the acquisition of the domain name; or
- the domain name was registered in order to prevent the owner of a trademark, a trade name, a registered name or a company name, a geographical designation, a name of origin, a designation of source, a personal name or a name of a geographical entity to use the domain name and that the registrant has engaged in a pattern of such conduct; or
- the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- the domain name was intentionally used to attract, for commercial gain, Internet users to the registrant's web site or other on-line location, by creating confusion with the complainant's trademark, trade name, registered name or company name, geographical designation, name of origin, designation of source, personal name or name of a geographical entity as to the source, sponsorship, affiliation, or endorsement of the registrant's web site or location or of a product or service on his web site or location.
- the registrant has registered one or more personal names without the existence of a demonstrable link between the registrant and the registered domain names.

The above article lists some examples of circumstances of bad faith; hence it should not be considered as a closed list but as guidance for the parties to establish the strengths and weaknesses of their claims.<sup>2</sup>

Also, bad faith is an element of fact and can be proven by any reasonable means, including presumptions and circumstances that indicate, with a reasonable degree of certainty, that the domain name holder knew, or ought to know, the Complainant's prior rights and nevertheless registered the domain name.<sup>3</sup>

---

<sup>2</sup> CEPANI case nr. 444102 "carrefour-express.be".

<sup>3</sup> CEPANI case nr. 44068 "vueling.be"; CEPANI case nr. 44067, "rembostyling.be".

Bad faith is further to be construed as the Domain Name Holder's knowledge, whether actual or reasonably certain based on the evidence in the circumstances that a third party (the Complainant) enjoyed a factual or legal situation previous to, and conflicting with, the litigious registration or use.<sup>4</sup>

Moreover, the passive holding of a domain name may be regarded as indicating the bad faith of the holder of such domain name.<sup>5</sup>

- 6.3.2. In the case at hand, the two Disputed Domain Names ending with “.be” indicate that they are intended to be used for Belgium-related activities. The Domain Name Holder should reasonably have been aware of the Complainant's existence and prior rights in Belgium, given its official status as a government-authorized gambling operator in the gaming industry. Any business or natural person seeking to operate a casino online or offline in Belgium ought to be aware that this necessitates a government issued license.

Additionally, the Domain Name Holder, on April 3, 2024, could not reasonably ignore that the Complainant was at least using the term “CASINO” and the term “MADISON” as a company name. A simple online search of the trade name and of the terms contained in the Disputed Domain Names directly refers to the website of the Complainant.

Further, as mentioned under 6.3.1, the passive holding of the domain name by a domain name holder serves as an indicator of bad faith.

- 6.3.3. Considering the above, the Third-Party Decider rules that the Complainant sufficiently demonstrated that there is no reasonable doubt that the Disputed Domain Names <madisoncasinos.be> and <casino-madison.be> were registered in bad faith and that the Domain Name Holder acquired, and is now using, the Domain Names in bad faith.

Therefore, the Third-Party Decider finds that the conditions of the third condition of Article 10b (1) of the Policy are met.

## 7. Decision

Consequently, pursuant to Article 10(e) of the *Policy*, the Third-Party Decider hereby rules that the domain name registration for the Disputed Domain Names <madisoncasinos.be> and <casino-madison.be> are to be transferred to the Complainant.

Brussels, November 12, 2024.

-----  
Alain STROWEL

The Third-Party Decider

---

<sup>4</sup> CEPANI case nr. 44436 “*bollore-logistics.be*”.

<sup>5</sup> WIPO D2000-0003 “*Tesla.org*” ; WIPO D2005-0615 “*chinavogue.com*”.