

## **ADMINISTRATIVE PANEL DECISION**

### **Paddy Power PLC v. Oded Keinan, Winning Partner Traffic Label Limited Case No. D2014-1192**

#### **1. The Parties**

The Complainant is Paddy Power PLC of Dublin, Ireland, represented by SafeNames Ltd., United Kingdom of Great Britain and Northern Ireland (“UK”).

The Respondent is Oded Keinan, Winning Partner Traffic Label Limited of St Albans, UK, represented by Adlex Solicitors, UK.

#### **2. The Domain Names and Registrar**

The disputed domain names <paddybingo.com>, <paddybingomail.com>, <paddypowercasinos.com>, <paddysbingo.com>, <paddyscasino.com> are registered with GoDaddy.com, LLC GoDaddy.com, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 8, 2014. On July 9, 2014, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On July 9, 2014, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant for all the domain names and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy”), 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(a) and 4(a), the Center formally notified the Respondent of the Complaint, and that the proceedings commenced on July 18, 2014. In accordance with the Rules, paragraph 5(a), the due date for Response was August 7, 2014. On July 29, 2014, the Center resent the Complaint with annexes to the Respondent due to a failure notice of the original Notification of Complaint from one of Respondent's email addresses and informed the parties that the Response due date remained August 7, 2014. The Response was filed with the Center on August 7, 2014.

On August 8, 2014, the Center transmitted an email regarding a possible settlement between the parties corresponding to the Respondent's contention in the Response with respect to the disputed domain name <paddypowercasinos.com>.

On August 12, 2014, the Center received the Complainant's supplemental filing by email pertinent to the rights of all the disputed domain names in spite of the possible settlement suggested in the Response. The Center acknowledged receipt of this supplemental filing on August 13, 2014. On August 13, 2014, the Center received the Respondent's objection to the Complainant's supplemental filing, which, in turn, the Center acknowledged on August 14, 2014.

The Center appointed Peter L. Michaelson, Isabel Davies and The Hon Neil Brown Q.C. as panelists in this matter on August 28, 2014. The Panel finds that it was properly constituted. Each member of 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**

##### **A. The Disputed Domain Names**

According to entries from the public Whois database and which appear in Annex I to the Complaint, and as confirmed by the Registrar, the disputed domain names <paddybingo.com>, <paddybingomail.com>, <paddypowercasinos.com>, <paddysbingo.com> and <paddyscasino.com> respectively were each registered to the Respondent and will expire on the following corresponding dates: June 9, 2007 and June 9, 2015; May 29, 2014 and May 29, 2015; January 9, 2006 and January 9, 2018; May 3, 2008 and May 3, 2015; and April 18, 2008 and April 18, 2017.

##### **B. Complainant's PADDY POWER Marks**

As indicated in the Complaint, the Complainant owns several trademark registrations, in various countries or regions, for marks that either solely contain the terms PADDY POWER either by itself or in conjunction with other terms. For these marks, the Complainant has provided, in Annex D to the Complaint, copies of either its registration certificates or printouts of entries from publicly available databases provided by the corresponding national/regional trademark offices. Pertinent details of these registrations are as follows:

1. PADDY POWER  
United States of America registration no. 4,590,987  
Registered: August 26, 2014; filed: May 31, 2012

This mark is registered for use in conjunction with: "Betting slips, namely, blank or partially printed paper betting slips; diaries; calendars; stationery; books in the field of betting, gambling, online gambling, online casino gaming, electronic or online trivia, puzzle games and games of chance; event programmes; magazines in the field of betting, gambling, online gambling, online casino gaming, electronic or online trivia, puzzle games and games of chance; printed periodicals in the field of betting, gambling, online gambling, online casino gaming, electronic or online trivia, puzzle games and games of chance; newspapers; printed matter in the nature of reference books, pamphlets, newsletters, guides, handbooks and rule books in the field of betting, gambling, online gambling, online casino gaming, electronic or online trivia, puzzle games and games of chance; scratch cards; printed vouchers; bookbinding material; photographs; adhesives for stationery or household purposes; paint brushes; typewriters; printed instructional and teaching material in the field of betting, gambling, online gambling, online casino gaming, electronic or online trivia, puzzle games and games of chance; plastics materials for packaging, namely, plastic bags for packaging; printers' type; printing blocks" in international class 16; "Providing access to multiple user network systems allowing access to gaming and betting information and services over the Internet and other global networks; telecommunications, namely, providing access to telecommunications networks, providing electronic telecommunications connections, and providing telecommunications connectivity services for transfer of

images, messages, audio, visual, audio-visual, and multimedia works; Telecommunications, namely, audio broadcasting, video broadcasting, wireless broadcasting, broadcasting of radio and television programs, broadcasting of video and audio programming over a global computer network” in international class 38; “Betting, gambling and gaming services and information services relating thereto; offshore telephone betting services; provision of information relating to sporting events; entertainment services, namely, providing online computer games, providing online video games, providing online electronic games, providing online card games and online poker games; organization and conducting competitions in the field of betting, gambling, online gambling, online casino gaming, electronic or online trivia, puzzle games and games of chance; provision of gaming and betting services transmitted via a global computer network such as the Internet” in international class 41; and “Licensing of software for providing access over the internet and multiple user global networks to gaming and betting information and gaming and betting services” in international class 45.

2. PADDY POWER  
CTM registration no. 001601624  
Registration date: November 13, 2001

This mark is registered for use in conjunction with: “Betting slips; token; diaries; calendars; stationery; books; programmes; magazines; periodicals; newspapers; printed matter; scratch card; vouchers” in international class 16; and “Gambling and betting services; gaming; entertainment; organization and conducting competitions” in international class 41.

3. PADDYPOWER.COM ONLINE BETTING (stylized)  
CTM registration no. 001943190  
Registration date: March 7, 2002

This mark is registered for use in conjunction with: “Betting slips, token, diaries, calendars, stationery, books, programmes, magazines, periodicals, newspapers, printed matter, scratch card, vouchers” in international class 16; “games and playthings” in international class 28; “providing and licensing access to multiple user network systems allowing access to gaming and betting information and services over the Internet and other global networks” in international class 38; and “gambling and betting services, gaming, entertainment, organisation and conducting competitions” in international class 41.

4. PADDYPOWER.COM ONLINE BETTING (stylized)  
Australian registration no. 894784  
Registration date: November 12, 2001

This mark is registered for use in conjunction with: “Providing access to multiple user network systems allowing access to gaming and betting information and services over a global computer network and other global networks” in international class 38; and “gambling and betting services, gaming, entertainment, organisation and conducting competitions; sport information and betting” in international class 41.

Further, the Complainant also claims unregistered or common law trademark rights in its marks PADDY POWER, PADDY POWER LIVE CASINO, PADDY POWER CASINO and PADDY POWER BINGO based on prior continuous use of these marks in conjunction with its goods and services.

### **C. Complainant’s Activities**

The Complainant was incorporated in August 1988 by three Irish bookmakers who merged their businesses. The name “Power” stems from one of the founders, David Power. The use of the word “Paddy” was chosen in relation to their Irish heritage. Initially, the Complainant’s business started with 40 betting shops all located in Ireland. During 2002, the Complainant opened its first betting shop in the UK. Over the ensuing years, the Complainant expanded its operation to currently over 230 betting shops in Ireland and over 250 betting shops in the UK.

After launching its first website at “www.paddypower.com” in 2000, the Complainant increased its online presence through the following additional websites: “www.paddypowergames.com” and “www.paddypowercasino.com” in 2004, “www.paddypowerpoker.com” in 2005 and “www.paddypowerbingo.com” in 2006. Screen shots of the home pages of these latter four web sites appear in Annex B to the Complaint.

Thereafter, the Complainant also acquired Australian bookmaker Sportsbet.com.au. The Complainant also has a business partnership with PMU in France, which is a large betting organization in Europe, and with Cayetano which is a Bulgarian games and software development firm.

In 2010, the Complainant was apparently the first online bookmaker to have a gambling application in Apple’s iTunes store. During 2013, the Complainant’s total revenues amounted to EUR 745.2 million of which use of that application was responsible for approximately 45% of those revenues.

The Complainant’s advertisements, such as those illustratively shown in Annexes A and C to the Complaint, are often communicated through their various social media pages including the Complainant’s Twitter account which currently has 370,000 followers, its Facebook page which has more than 1 million likes, and its YouTube account with approximately 9,000 subscribers.

#### **D. Respondent’s Activities and Its Interactions with the Complainant**

In 2007, the Respondent’s proprietor decided to test a potential business venture which involved buying generic gaming-related domain names appearing on a list of expiring domain names at SnapNames and then attempted to monetize those names by setting up affiliate links to gaming sites. As part of this venture, the Respondent bought its first domain name <casinoincome.com> on June 6, 2007. It purchased its second name <paddybingo.com> – which is one of the disputed domain names – three days later. During June 2007, the Respondent purchased a total of 29 expired domain names from SnapNames (a list of those names appears in Exhibit 4 to the Response). The Respondent had selected <paddybingo.com> because to it the name appeared attractive, short and simple, and included a gaming related term and the term “Paddy” so that the name could at some point be used for an Irish-themed gaming site. The Respondent did not independently conceive of this name but rather simply spotted it as an expired name on the SnapNames’ drop list of expiring names. Currently, the Respondent owns some 12,000 domain names, some 2,000 of which were acquired from SnapNames and the remainder from other companies auctioning other expired domains, specifically NameJet and GoDaddy.

The Respondent admits that he would have been generally aware of the existence of the Complainant in June 2007. However, the Respondent never associated the name <paddybingo.com> with the Complainant’s mark PADDY POWER as the name comprised only the term “Paddy”, not “Power”, plus the generic gaming (here specifically gambling) term “bingo”.

After registering the name <paddybingo.com>, the Respondent’s business increased to the point where, by 2008, the Respondent employed approximately 25 staff members in India to both register domain names, at a rate of approximately 10 domain names per day, and write content for the corresponding websites.

At least as early as January 2008 and continuing into March 2009, the Respondent’s website at “www.paddybingo.com” consisted of a guide/review site with links to various bingo websites, as shown in Annex 14 to the Complaint. An archived version of that site in February 2011 (see Annex H to the Complaint) included descriptive references to the Complainant’s online gaming site. This content was written by the Respondent’s Indian staff members and the Respondent is not clear why they mistakenly truncated the Complainant’s name in those references to “Paddy Bingo”. On May 20, 2014, the Respondent launched its own “pay to play” bingo website at “www.paddybingo.com”. The Respondent has expended approximately GBP 15,000 in marketing its “www.paddybingo.com” website, with a delineation of those expenses shown in Exhibit 12 to the Response.

The Respondent selected the disputed domain name <paddysbingo.com> as an obvious match to its previously registered name <paddybingo.com>. The Respondent used the disputed domain name <paddysbingo.com> in a similar manner to its prior use of <paddybingo.com>, *i.e.*, as a guide to bingo sites, though the domain name <paddysbingo.com> is no longer in use.

The Respondent admits that it was aware of the Complainant's casino website at the time the Respondent acquired the disputed domain name <paddycasino.com>, but the Respondent selected that name because it matched the Respondent's existing format of using the term "Paddy" followed by a generic gaming term. The Respondent admits that it used the disputed domain name <paddycasino.com> for an online gaming site.

The Respondent registered the disputed domain name <paddybingomail.com> for use for emails in connection with its "Paddy Bingo" business and solely used the name in that fashion. That domain name is no longer in use.

Since at least 2013, the Respondent uses the disputed domain name <paddypowercasinos.com> as an address to a page of links to various third-party sites some of which are competitive with the Complainant, and all of which apparently generate click-through revenue. A copy of that page appears in pages 4-5 and 11 of Annex F to the Complaint. The Respondent states that it has not profited from any of those links. Nevertheless, the Respondent does not dispute that, for the purpose of this administrative proceeding, it used this particular domain name in bad faith.

The Respondent also admits that it possesses some domain names which it should not. The Respondent attributes this to its occasional struggles to cope with the sharp expansion of its business including the speed and scale of the domain registrations were being made on its behalf. Occasionally, its staff registered domain names which contained third-party trademarks. Nevertheless, the Respondent acknowledges such registrations should not have happened and is implementing steps to minimize such registrations in the future. The Respondent accepts responsibility for its staff having registered those names.

## **5. Parties' Contentions**

### **A. Complainant**

#### **(i) Identical or Confusingly Similar**

The Complainant contends that each of the disputed domain names is confusingly similar to the Complainant's PADDY POWER Marks.

Specifically, one of the disputed domain names <paddypowercasinos.com> contains the Complainant's mark PADDY POWER in its entirety. Each of the other four disputed names contains the term "Paddy" or, its plural form "Paddys", appended by the generic words "bingo", "bingo mail" or "casino". Given the Complainant's widespread public recognition in the European and international online gambling industries, none of these variations is adequate to sufficiently mitigate any resulting confusion to Internet users that arises between each of these names and the Complainant's PADDY POWER Marks.

In that regard, the Complainant asserted that: (a) it was the only organization to use the term "paddy" in its marks prior to the registration of any of the disputed domain names, and (b) as a result of such use over the ensuing years, the Complainant's mark PADDY POWER has gained widespread recognition and reputation in these online gambling industries as source-indicative of the Complainant to the point where the use, by the Respondent, of just the term "Paddy" without the term "Power" but combined with any of these generic gambling-related words which the Respondent has chosen, suffices to cause confusion of Internet users who specifically search for the Complainant's online gambling services. Upon encountering one of the disputed domain names, such a user would likely and mistakenly assume that an association or relationship of some sort exists between the Complainant and the Respondent – when, in actuality, it does not.

Hence, the Complainant believes that it has satisfied the confusing similarity/identity requirement in paragraph 4(a)(i) of the Policy.

(ii) Rights or Legitimate Interests

The Complainant contends that the Respondent has no rights or legitimate interests in any of the disputed domain names pursuant to paragraph 4(a)(ii) of the Policy.

First, the Complainant has never authorized the Respondent to use any of the Complainant's PADDY POWER Marks for any purpose. Moreover, the Complainant has never had any dealings or any affiliation with the Respondent.

Second, the Respondent is not commonly known as "paddy bingo" or "paddy casino" or "paddys casino" and apparently has no trademark registrations or pending trademark applications for a mark that includes any of these terms.

Third, none of the disputed names is being used in a legitimate commercial manner. Specifically, the website at "www.paddybingo.com" is a bingo website belonging to a competitor of the Complainant. Similarly, <paddycasino.com> also resolves to a gambling website competitive with the Complainant. The domain name <paddypowercasinos.com> resolves, since at least 2013, to a page of links to third-party websites including some which directly compete with the Complainant. These uses, which are each intentionally designed to infringe the Complainant's marks and exploit resulting user confusion, do not constitute use in conjunction with a *bona fide* offering of services, and thus are all illegitimate.

The remaining two names <paddybingomail.com> and <paddysbingo.com> are not in use at all.

Moreover, none of the five disputed domain names is being legitimately used for a noncommercial or fair use purpose.

(iii) Registered and Used in Bad Faith

The Complainant also contends that the Respondent has registered and is using each of the disputed domain names in bad faith pursuant to paragraph 4(a)(iii) of the Policy.

First, in forming the disputed domain names using the term "paddy" followed by either of the gambling related terms "bingo" and "casino", the Respondent is intentionally targeting the Complainant by causing user confusion and exploiting that confusion for the Respondent's own pecuniary benefit. Specifically, the term "paddy" is associated in the online gambling industries with the Complainant's services. Consequently, each of these disputed domain names implies to Internet users, who search for the Complainant's online services, that a relationship or association exists between the Complainant and the Respondent when, in fact, it does not.

While the term "paddy" has other meanings, specifically either a field where rice is grown or as a derogatory term for an Irishman, none of those meanings has any relevance to the gambling industry where the Complainant has, over time, developed considerable secondary meaning in the term "Paddy" as indicating the source of its services. The Respondent, having prior knowledge of the Complainant and its services, could easily have chosen a different term than "Paddy" for use in its disputed domain names and to still suggest some connection with Ireland, but chose not to do so.

Second, the disputed domain name <paddypowercasinos.com> resolves to a page of links to third-party sites, some of which offer gaming services directly competing with those of the Complainant.

Third, two of the disputed domain names <paddybingomail.com> and <paddysbingo.com>, do not resolve to operational websites and are simply being passively held. Inasmuch as these names also infringe the Complainant's PADDY POWER marks, the Complainant cannot conceive of any *bona fide* purpose which

the Respondent would have for these names that would not infringe.

Fourth, the Respondent has established a pattern of abusive and speculative registrations of names in the online gambling industry which prevents trademark rights holders from registering a name bearing their marks. In that regard, Respondent Oded Keinan's portfolio of domain names includes those containing third-party marks, such as <caesarscasinogames.com>, <casinoskyvegas.com>, <888-onlinecasino.net>, <bestbetcasino.net>, <ladbrokeonlinecasino.com> and <pokerfulltilt.com>.

## **B. Respondent**

### **(i) Identical or Confusingly Similar**

The Respondent does not contest that the domain name <paddypowercasinos.com> is confusingly similar to the Complainant's mark PADDY POWER. However, the Respondent disputes that the other four disputed names are each confusingly similar to any of the Complainant's marks.

Specifically, the Complainant has only provided for each of these four names a single undated website screenshot and isolated historical search results – all of which is insufficient to establish unregistered or common law trademark rights in PADDY CASINO, PADDYS CASINO, PADDY BINGO and PADDYS BINGO.

Moreover, the Complainant's entire mark PADDY POWER is not contained within any of these other four domain names. The term "Power" is a critical element of that mark. Without that term, all that is left of the mark is the term "Paddy" which is a well-known common word that is either an Irishman's first name or a derogatory term referencing an Irishman. Thus, a simple visual comparison of these names and the Complainant's marks reveals considerable dissimilarity. Internet users seeking the Complainant's services would expect to see the Complainant's full mark PADDY POWER not just the term "Paddy".

### **(ii) Rights or Legitimate Interests**

The Respondent asserts no rights or legitimate interests in the disputed domain name <paddypowercasinos.com>.

In contrast, the Respondent claims it has rights and legitimate interests in each of the other four disputed domain names. The domain names <paddybingo.com>, <paddysbingo.com> and <paddyscasino.com> have all been used for *bona fide* offerings of services and without any intention to divert traffic from the Complainant. The name <paddybingomail.com> had been used in a *bona fide* manner for email relating to the domain name <paddybingo.com>.

### **(iii) Registered and Used in Bad Faith**

The Respondent acknowledges that it registered various domain names, specifically here the disputed domain name <paddypowercasinos.com>, which it should not have done, as those names included third-party marks. Further, the Respondent concedes that it used the disputed domain name <paddypowercasinos.com> in bad faith pursuant to the Policy.

However, the Respondent argues that it did not register any of the four remaining disputed domain names in bad faith.

Specifically, the Respondent contends that, since each of these four domain names does not contain the term "power", he did not believe that any of those domain names was confusingly similar to the Claimant's mark PADDY POWER and thus did not associate any of those domain names with the Complainant – even though the Respondent was aware of the Complainant when it registered each of these domain names. Further, the Respondent did not independently conceive the disputed domain name <paddybingo.com>, much less to cause confusion with the Complainant's marks, but rather just selected it from a list of expiring

domain names on SnapNames. In addition, the Complainant has not produced sufficient evidence to prove that it had a significant online profile in June 2007 when the Respondent registered the disputed domain name <paddybingo.com>, particularly given the fact that the Complainant's own Wikipedia page states that the Complainant began offering online bingo games in December 2007, and the Respondent did not become aware of the Complainant's online bingo services until sometime in 2008.

Though the Respondent was aware of the Complainant's casino site at the time it registered <paddysbingo.com>, the Respondent selected that domain name as it was an "obvious match" to the disputed domain name <paddybingo.com> which the Respondent also previously registered.

The Respondent registered <paddybingomail.com> not to cause any confusion with the Complainant's marks but rather for use with emails and in conjunction with its site at <paddybingo.com>.

The Respondent also contends that it did not use any of these other four disputed domain names in bad faith, but rather did so for legitimate purposes. In that regard, it first used the disputed domain name <paddybingo.com> at least as early as January 2008 to point to a guide/review site with links to bingo websites. Though that site did contain descriptive references to the Complainant's online gambling site, those references described services which the Complainant offered through its own site and not those provided through the Respondent's site, thus negating any possible inference of any intention of the Respondent to create confusion of Internet users.

Further, on May 20, 2014, the Respondent started offering a "pay to play" bingo site at "www.paddybingo.com" with that use continuing to the present. The Respondent has used <paddysbingo.com> in a similar manner to its prior use of <paddybingo.com>, *i.e.*, as a guide to bingo websites, but it ceased using the former domain name at all.

The Respondent only used the name <paddybingomail.com> in conjunction with email, though that domain name is no longer in use.

The Respondent is using <paddyscasino.com> for an online gambling site.

Thus, the Respondent views that the corresponding use or non-use of each of these four names does not reflect bad faith.

### **C. Supplemental Filings**

Both sides submitted Supplemental Filings. The Panel, exercising its sole discretion under the Rules, paragraphs 10 and 12, has not considered the Complainant's supplemental filing. The Complainant's arguments in its submission appear to simply supplement and amplify those it has already made in its Complaint and thus adds relatively little to that set forth in the Complaint. As the Respondent, through its supplemental filing, merely objects to admission of the Complainant's supplemental filing, the Respondent's filing is moot.

## **6. Discussion and Findings**

As the Respondent does not object to transfer of the name <paddypowercasinos.com> to the Complainant, the Panel will not discuss this name any further and will simply order it transferred. The following discussion will collectively address the remaining four disputed domain names inasmuch as they all present the same issues.

### **A. Identical or Confusingly Similar**

The Panel finds that the four disputed domain names, <paddybingo.com>, <paddybingomail.com>, <paddysbingo.com> and <paddyscasino.com>, are each confusingly similar to the Complainant's PADDY



## POWER Marks.

While paragraph 1(a) of the Policy requires, as a threshold condition, that a “domain name be either identical or confusingly similar to a trademark or service mark in which the complainant has rights”, the Policy does not define what constitutes “confusingly similar” and leaves both its definition and assessment to a panel’s discretion.

In assessing confusing similarity, a visual comparison is generally made of an alphanumeric string in a disputed domain name against a complainant’s trademark to determine the degree of visual similarity. The trademark would generally need to be recognizable as such within the domain name, with the addition of common, dictionary, descriptive, or negative terms typically being regarded as insufficient to prevent threshold Internet user confusion. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Second Edition (“WIPO Overview 2.0”), paragraph 1.2.

From such a comparison, it is readily apparent that the Complainant’s mark PADDY POWER is not fully subsumed within any of the four domain names; nevertheless, the formative term “paddy” is. While ordinarily the omission of one word of a two-word composite mark might negate a finding of sufficient similarity, under the totality of the particular circumstances here it does not.

Specifically, both the Complainant and the Respondent compete in the same industry: online gambling. Further, the Respondent conceded that, at the time it registered each of these four domain names, it was aware of the Complainant. Though the Respondent would like the Panel to believe that the Complainant’s business of interest here was limited to online gambling to support its allegation that the Complainant did not have a sufficient online presence as of June 2007 when the Respondent registered the earliest of these disputed domain names, <paddybingo.com>, and thus at the time it was not aware of that presence, the Panel does not accept such a myopic view.

Between the years 1988, during which the Complainant was founded, and 2002, the Complainant had established 40 physical gambling locations (betting shops) through Ireland and had developed a considerable market presence in the gambling industry in that country. In 2002, the Complainant opened its first shop in the UK and proceeded to open further shops in the UK as its business there continued to grow. Consequently, the Complainant developed considerable secondary meaning in its marks for its gambling operation – a recognition that the Respondent does not dispute. Clearly, some customers who sought out the Complainant’s betting shops would also or alternatively seek out its online gambling sites. Thus, it stands to reason that the recognition and reputation which the Complainant established in its physical market would in good measure extend to its online betting sites as well – even though those sites, viewed by themselves, may not have developed much market presence by June 2007.

Further, it is entirely reasonable to recognize that the Complainant’s customers would, out of simplicity, refer to the Complainant by simply truncating its mark to its formative term “paddy”. Each of the four disputed domain names also begins with the word “paddy”. While the parties jointly recognize that this term has alternate meanings, particularly a name for a rice field or a first name for an Irishman (whether derogatory or not), such meanings are irrelevant in the gambling industry, including both online and physical, in light of the considerable secondary meaning which the Complainant continuously developed in its marks since it began operation in 1988.

The addition of various generic words to the term “paddy” in forming each of the four disputed domain names, specifically “bingo”, “bingo mail” or “casino” or the use of a plural form of “paddy”, *i.e.* “paddys” instead of the singular, are insufficient to dispel Internet user confusion. Moreover, such confusion is actually heightened in that each of the generic words is related to gambling, *e.g.*, “bingo” and “casino”, thus exacerbating a likelihood that an Internet user, who seeks the Complainant’s online gambling services and, during searching or other Internet activity, comes across any of these four domain names, would readily, but erroneously, believe that an association, endorsement or relationship of some sort exists between the Complainant and the Respondent when, in fact, they are direct competitors and have no such association, endorsement or relationship at all.

Hence, the Panel finds that the Respondent, knowing the Complainant's reputation, intentionally chose each of these four disputed domain names to exploit that reputation to the detriment of the Complainant.

As such, under the particular facts of record, the Panel finds that inclusion of the formative term "paddy" (or its plural variant), apart from the term "power" but with a gambling-related generic term as exists in each of the four disputed domain names, suffices to establish confusing similarity with the Complainant's mark PADDY POWER.

Therefore, the Panel finds that each of the four disputed domain names is confusingly similar to the Complainant's mark PADDY POWER. Hence, the Complainant has satisfied its burden under paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

Based on the evidence of record here, the Panel finds that no basis exists which would appear to legitimize a claim of rights or legitimate interests by the Respondent to any of the four disputed domain names, <paddybingo.com>, <paddybingomail.com>, <paddysbingo.com> and <paddyscasino.com>, under paragraph 4(c) of the Policy.

First, the Complainant never authorized the Respondent to utilize any of the PADDY POWER Marks nor does the Complainant apparently have any relationship or association whatsoever with the Respondent. Furthermore, given the exclusive trademark rights that reside in the Complainant, the Respondent could not legitimately acquire any public association between itself and the mark PADDY POWER or even any mark similar thereto such as a mark containing PADDY with a generic gambling-related term(s) appended thereto, at least for the goods and services provided by the Complainant under its marks.

The Respondent once used the disputed domain name <paddybingo.com> to address a guide/review site with links to various bingo websites but now uses it as an address of a "pay to play" bingo site. The Respondent uses the disputed domain name <paddyscasino.com> as an address of an online gambling site. The Respondent's evident purpose behind choosing <paddybingo.com> and <paddyscasino.com> and continuing to use those names is to exploit the ensuing source confusion of Internet users in order to divert traffic away from the Complainant's competing gambling sites to the Respondent's sites instead and hence commercially benefit the Respondent to the detriment of the Complainant. Neither of these uses constitutes a *bona fide* offering of goods or services consistent with paragraph 4(c)(i) of the Policy, nor a legitimate noncommercial or fair use under paragraph 4(c)(iii) of the Policy. The other two of the four disputed domain names <paddysbingo.com> and <paddybingomail.com> are not presently in use at all, thus not constituting a legitimate noncommercial or fair use either.

Third, there is absolutely no evidence of record that the Respondent has ever been commonly known by any of the four disputed domain names or more generally the mark PADDY POWER or even the term "paddy", let alone in conjunction with the goods and services for which the Complainant uses its marks. Nor could the Respondent likely ever become commonly known by either any of these four disputed domain names or the mark without infringing on the exclusive trademark rights of the Complainant. Hence, the Respondent does not fall within paragraph 4(c)(ii) of the Policy.

As such, based on the evidence presently before the Panel, the Respondent does not fall within any of paragraphs 4(c)(i)-(iii) of the Policy. Also, there is simply no evidence that the Respondent has acquired, through any other means, any rights or legitimate interests in the disputed domain names.

Accordingly, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain names within paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Panel finds that the Respondent's actions, with respect to each of the four disputed domain names,

<paddybingo.com>, <paddybingomail.com>, <paddysbingo.com> and <paddyscasino.com> constitute bad faith registration and use.

The Respondent admits that it was aware of the Complainant when it registered each of these four disputed domain names. Yet, in spite of that knowledge, the Respondent intentionally chose and registered each of the four disputed domain names to opportunistically exploit the Complainant's reputation through the potential of that name to generate confusion of Internet users for the Respondent's eventual pecuniary benefit, such as by diverting those users away from the Complainant's website to the competing site of the Respondent and thereby depriving the Complainant of gambling revenue which those Internet users would otherwise yield. Two of the four names <paddybingo.com> and <paddyscasino.com>, are being used in this fashion and thus reflect bad faith use.

Consequently, the Panel believes that the Respondent would not have chosen to register a domain name that includes the term "paddy" if the Respondent's intention from the onset was not to exploit the reputation and goodwill of the Complainant's marks for the Respondent's own financial benefit.

The fact that the actual registrations were handled by the Respondent's staff in India is of no consequence, as the Respondent is responsible for the actions of those in its employees or acting upon its instructions, and as such the Respondent has expressly accepted such responsibility.

The other two of these four disputed domain names, <paddysbingo.com> and <paddybingomail.com>, are not presently in use and appear to be passively held, thus also reflecting bad faith use.

Hence, the Panel concludes that the Respondent's registration and use of the disputed domain names fall within the bad faith provision of paragraphs 4(a)(iii) and 4(b)(iv) of the Policy.

Thus, the Panel concludes that the Complainant has provided sufficient proof of its allegations, with respect to each of the four disputed domain names, to establish a case under paragraph 4(a) of the Policy upon which the relief it now seeks can be granted.

## **7. Decision**

Accordingly, under paragraphs 4(i) of the Policy and 15 of the Rules, the Panel grants the relief sought by the Complainant. The disputed domain names <paddybingo.com>, <paddybingomail.com>, <paddypowercasinos.com>, <paddysbingo.com> and <paddyscasino.com> are ordered to be transferred to the Complainant.

**Peter L. Michaelson**  
Presiding Panelist

**Isabel Davies**  
Panelist

**The Hon Neil Brown Q.C.**  
Panelist  
Date: September 9, 2014