

## **ADMINISTRATIVE PANEL DECISION**

Cube Limited v. Kim Nong Van

Case No. D2023-1838

### **1. The Parties**

The Complainant is Cube Limited, United Kingdom, represented by Farrer & Co., United Kingdom.

The Respondent is Kim Nong Van, Viet Nam.

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

The disputed domain name <188bet.online> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 25, 2023. On April 25, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 25, 2023, 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 (Privacy service provided by Withheld For Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 26, 2023 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 amended Complaint on April 27, 2023.

The Center verified that the Complaint together with the amended 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 May 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2023. On May 5, 2023, the Respondent sent an email to the Center. The Center sent an email regarding possible settlement to the Parties on May 11, 2023. The Complainant sent an email to the Center on May 18, 2023 requesting to continue with the proceedings. On May 19, 2023, the Respondent sent an email to the Center. However, the Respondent did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on May 30, 2023.

The Center appointed Kaya Köklü as the sole panelist in this matter on June 14, 2023. 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 company incorporated in United Kingdom. It offers betting and casino products and services.

The Complainant owns various word and figurative 188 and 188BET trademark registrations around the globe. The Complainant is, *among others*, the registered owner of the United Kingdom Trademark Registration Nos. 00908390379 for 188 (registered on March 22, 2010) and 00908425324 for 188BET (also registered on March 22, 2010), both covering protection for various goods and services as protected in class 9, 28, 41, and 42 (Annex 3 to the Complaint).

The Complainant further owns and operates its business from its official website “www.188bet.com”, with an indicated average of over one million visitors per month.

The Respondent is reportedly located in Viet Nam.

The disputed domain name was registered on April 1, 2020.

The screenshots, as provided by the Complainant, show that the disputed domain name resolves to a website in Vietnamese language, purportedly offering various kinds of betting and gambling products and services (Annex 5 to the Complaint). On the website at the disputed domain name, the Respondent prominently uses the 188 and 188BET word and figurative trademarks of the Complainant in a way that creates a look and feel as if the website is operated by the Complainant. Particularly, the associated website does not provide for any visible disclaimer describing the (lack of) relationship between the Parties (Annex 5 to the Complaint). Moreover, the website also includes a QR code / link to download an alleged “188BET App”, which is not official.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant requests the transfer of the disputed domain name.

The Complainant is of the opinion that the disputed domain name is identical to its 188BET trademark and confusingly similar to its 188 trademark.

It further argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

In addition, the Complainant is convinced that the Respondent has registered and is using the disputed domain name in bad faith.

##### **B. Respondent**

The Respondent did not formally reply to the Complainant's contentions. However, the Center received two email communications in English language on May 5 and 19, 2023. While the sender claimed in his first email to the Center that he had nothing to do with the disputed domain name, he (falsely) alleged in his second email that he had stopped using the disputed domain name in the meantime.

## 6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

### A. Identical or Confusingly Similar

To begin with, the Panel confirms that the Complainant has satisfied the threshold requirement of having relevant trademark rights. As evidenced in the Complaint, the Complainant is the owner of the 188 and 188BET trademarks, which are registered in various jurisdictions since at least 2010 (Annex 3 to the Complaint).

The Panel finds that the disputed domain name is identical to the Complainant's 188BET trademark as it incorporates the Complainant's trademark in its entirety without any additions or amendments. In addition, it also contains the Complainant's 188 trademark in its entirety.

In this regard, the Panel notes that the generic Top-Level Domain (".online" in this case) may, as a general principle, be disregarded when assessing identity or confusing similarity between a domain name and a trademark. See [WIPO Overview 3.0](#), section 1.11.1.

In view of the finding above, the Panel is satisfied that the Complainant has met the requirements under paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

While the burden of proof remains with the Complainant, the Panel recognizes that this would often result in the impossible task of proving a negative, in particular as the evidence needed to show the Respondent's rights or legitimate interests is primarily within the knowledge of the Respondent. Therefore, the Panel agrees with prior UDRP panels that the Complainant is required to make out a *prima facie* case before the burden of production of evidence shifts to the Respondent to show that it has rights or legitimate interests in the disputed domain name to meet the requirements of paragraph 4(a)(ii) of the Policy. *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#).

With its Complaint, the Complainant has provided *prima facie* evidence that the Respondent has no rights or

legitimate interests, particularly no license or alike to use the Complainant's 188 and 188BET trademarks within the disputed domain name.

In the absence of a substantive Response, the Respondent has failed to demonstrate any of the nonexclusive circumstances evidencing rights or legitimate interests under the Policy, paragraph 4(c) or provide any other evidence of a right or legitimate interest in the disputed domain name.

There is particularly no doubt that the Respondent was well aware of the Complainant and its 188 and 188BET trademarks before registering and using the disputed domain name. The Panel is convinced that the Respondent deliberately has chosen the disputed domain name to cause confusion with the Complainant and its betting and gambling offers among Internet users. Also, the Panel notes that the nature of the disputed domain name along with the content of the associated website (reproducing the Complainant's 188 and 188BET trademarks in its entirety), indicates the Respondent's intention to create a risk of affiliation or association with the Complainant and its trademarks. It is obvious to the Panel that the disputed domain name is used to impersonate the Complainant, which results in an illicit use that can never confer rights or legitimate interests upon the Respondent. See section 2.13 of [WIPO Overview 3.0](#).

Bearing all this in mind, the Panel does also not see any basis for assessing a *bona fide* offering of goods or services by the Respondent.

Consequently, the Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(ii) of the Policy.

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

The Panel believes that the Respondent deliberately attempted to create a likelihood of confusion among Internet users for illegitimate purposes, particularly for the following reasons.

At the date of registration of the disputed domain name, the Respondent was apparently well aware of the Complainant and its 188 and 188BET trademarks. It is obvious to the Panel, that the Respondent has deliberately chosen the disputed domain name to target and mislead Internet users. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

Additionally, the Panel finds that the Respondent is using the disputed domain name in bad faith. The Panel particularly notes that the inherently misleading disputed domain name resolves to a website falsely creating the impression to be operated by the Complainant or at least with its authorization (Annex 5 to the Complaint). The Panel concludes that the attempt to impersonate the Complainant is *per se* considered as evidence of bad faith.

Taking all facts of the case into consideration, the Panel believes that this is a typical cybersquatting case, which the UDRP was designed to stop.

The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith and that the Complainant consequently has satisfied the third element of the Policy, namely, paragraph 4(a)(iii) 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 <188bet.online> be transferred to the Complainant.

/Kaya Köklü/

**Kaya Köklü**

Sole Panelist

Date: June 28, 2023