

## **ADMINISTRATIVE PANEL DECISION**

Merryvale Limited v. Pranjal Sharma

Case No. D2022-0159

### **1. The Parties**

The Complainant is Merryvale Limited, Guernsey, represented by Herzog, Fox & Neeman, Israel.

The Respondent is Pranjal Sharma, India.

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

The disputed domain name <betway24.com> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 18, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 19, 2022, 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on January 26, 2022 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 January 31, 2022.

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 February 1, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2022. Due to difficulties delivering the Written Notice, the Center exceptionally extended the Response due date to March 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Commencement of Panel Appointment Process on March 8, 2022.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on March 10, 2022. 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 member of the Betway Group of companies which enjoys a pre-eminent reputation in the online gaming and sport betting fields. The Betway Group, and the Complainant amongst them, operates a number of online gaming websites under the brand name "Betway" ("Betway"). The Betway brand entered the online gaming market in 2006 via the innovative website located at "www.betway.com". The Betway website is one of the leading gaming websites in the world with 1.98 million unique users worldwide so far in 2021. As a result, the Complainant as part of the Betway Group enjoys a substantial worldwide reputation as a market leader in the field of online gaming. In 2019 the marketing budget for the Betway brand was EUR 134 million, in 2020 it increased to EUR 136 million, and in 2021 to EUR 141 million. In the past year the Betway brand has also featured in the context of its holding company's acquisition in one of 2021's biggest SPAC (Special Purpose Acquisition Companies) deals, as detailed in the article attached to the Complaint.

The Complainant has proven to be the owner of numerous registrations for the BETWAY mark.

The Complainant is *inter alia* the owner of:

European Union trademark BETWAY (word) registration No. 004832325 registered on January 1, 2006;  
European Union trademark BETWAY (device) registration No. 012771564 registered on September 1, 2014;  
Indian trademark BETWAY (word) registration No. 3202826 registered on March 4, 2016;

The disputed domain name was registered on March 9, 2021.

The website at the disputed domain name resolves to a pay-per-click ("PPC") page containing links to third parties' websites that directly compete with the Complainant's business.

The Facebook page "Betway24", which contains a direct link to the website hosted at the disputed domain name, also includes the Betway trademarks and proposes goods and services directly competing with those of the Complainant.

The Complainant's trademark registrations predate the registration of the disputed domain name.

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

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

The Complainant contends that the disputed domain name is confusingly similar to the BETWAY trademark, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the disputed domain name has been registered and is being used in bad faith.

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

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

## 6. Discussion and Findings

In order for the Complainant to obtain the transfer of the disputed domain name, paragraphs 4(a)(i)-(iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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.

### A. Identical or Confusingly Similar

The Complainant has established rights in the BETWAY trademark.

The disputed domain name <betway24.com> contains the Complainant's BETWAY with the addition of the suffix "24" and the generic Top-Level Domain ".com".

The addition in the disputed domain name of the suffix "24" does obviously not prevent confusing similarity with the BETWAY trademark.

This Panel agrees with previous UDRP decisions affirming that confusing similarity is generally established when the domain name incorporates the Complainant's trademark in its entirety, and that the addition of generic prefixes and suffixes does not avoid confusing similarity. See *Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#) and section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Therefore, the Panel finds the disputed domain name to be confusingly similar to the BETWAY trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

This Panel finds that the Complainant has made out a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services. In addition, the Respondent does not appear to be commonly known by the name "BETWAY" or by a similar name. Moreover, the Respondent has not replied to the Complainant's contentions, alleging any rights or legitimate interests in the disputed domain name.

The disputed domain name is currently used to resolve to a PPC website containing links including links that directly compete with the Complainant's business. Previous UDRP panels have found that the use of a domain name to host a PPC website does not represent a *bona fide* offering where such links compete with or capitalize on the reputation and goodwill of the Complainant's trademark or otherwise mislead Internet users (section 2.9 of the [WIPO Overview 3.0](#)).

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

### C. Registered and Used in Bad Faith

The Panel, on the basis of the evidence presented, accepts and agrees with the Complainant's contentions that the disputed domain name was registered in bad faith and has been used in bad faith.

Particularly relevant are the Complainant's unchallenged assertions (which the Panel accepts and partially reports below) that:

The Respondent could not be unaware of the existence of the Complainant's trademarks when registering the disputed domain name.

In fact, the Respondent registered the disputed domain name long after the Complainant had registered its trademarks and long after the Complainant, through its affiliate, had operated a website under the domain name <betway.com>.

In addition, the Facebook page "BetWay24", apparently linked to the disputed domain name, clearly proposes goods and services directly competing with those of the Complainant.

The Panel notes that at the time of issuing this Decision, the disputed domain name resolves to a PPC website containing links that directly compete with the Complainant's business. This Panel finds that all of the above qualifies as bad faith registration and use under paragraph 4(b)(iv) of the Policy.

Moreover, a privacy shield registration service has been used for the disputed domain name. While the use of a privacy or proxy registration service is not in and of itself an indication of bad faith, it is the Panel's opinion that in the present case the use of a privacy shield, combined with the elements previously discussed, amounts to a further inference of bad faith registration and use.

Finally, the Respondent has not responded to (nor denied) the assertions made by the Complainant in this proceeding.

Accordingly, the Panel finds that the Complainant has satisfied 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, <betway24.com> be transferred to the Complainant.

*/Fabrizio Bedarida/*

**Fabrizio Bedarida**

Sole Panelist

Date: March 24, 2022