

## ADMINISTRATIVE PANEL DECISION

Cube Limited v. Domains by Proxy LLC / massi pepo  
Case No. D2022-1683

### 1. The Parties

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

The Respondent is Domains by Proxy LLC, United States of America (“United States”) / massi pepo, Thailand.<sup>1</sup>

### 2. The Domain Name and Registrar

The disputed domain name <188bets.net> 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 May 9, 2022. On May 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 11, 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 May 12, 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 May 17, 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

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<sup>1</sup> The Panel notes an email from the Registrar stating that the amended complaint identifies Domains by Proxy LLC as the registrant of the disputed domain name and requests that the same not be listed as a respondent. (The amended complaint states that “[a]ll information known to the Complainant regarding how to contact the Respondent at the point of filing the Complaint was Domains By Proxy LLC,” and that “[f]ollowing submission of the Complaint, the Registrar provided [ ] additional information identifying the [r]egistrant” as “massi pepo”.) While the Panel understands the intention behind this request, it is noted that a standard UDRP practice (flowing from the definition of “Respondent” in Rules paragraph 1) has been to record the named privacy or proxy service in the case caption, with the substantive merits being addressed to the underlying registrant, assuming one (a) exists, and (b) is identified. The Panel would also note the longstanding absence of guidance from the Registrar-accrediting authority, ICANN, on the topic of Privacy and Proxy Services Accreditation Issues.

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 *massi pepo*, and the proceedings commenced on May 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 8, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on June 9, 2022.

The Center appointed Kiyoshi Tsuru as the sole panelist in this matter on June 20, 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 company incorporated in the Isle of Man and operates a website by means of which it offers betting and casino products and services.

Among other trademark registrations around the world, the Complainant owns the following:

Trademark	No. Registration	Registration Date	Jurisdiction	Classes
188BET	008425324	March 22, 2010	European Union	9, 28, 41, 42
188BET 	008449597	March 22, 2010	European Union	9, 28, 41, 42
188BET	302702655	August 12, 2013	Hong Kong	9, 28, 41, 42
188BET 	302705580	August 15, 2013	Hong Kong	9, 28, 41, 42
188BET 	1207046	March 17, 2011	Mexico	9
188BET 	1217139	May 17, 2011	Mexico	41
188BET	UK00908425324	March 22, 2010	United Kingdom	9, 28, 41, 42
188BET 	UK00003017207	November 8, 2013	United Kingdom	9, 28, 41, 42
188BET 	UK00908449597	March 22, 2010	United Kingdom	9, 28, 41, 42
188BET 	5724600	April 16, 2019	United States	9, 41

The Complainant owns the domain name <188bet.com> since December 28, 2005, and the website to which it resolves has an average of 1 million unique visitors and has 30 million page views per month.

The disputed domain name <188bets.net> was registered on February 12, 2021 and resolves to a website that offers online betting services.

#### 5. Parties’ Contentions

##### A. Complainant

That the Complainant’s website has a significant global customer base, primarily based in Asia, where the 188BET trademark is widely recognized.

That the Complainant has used the 188BET trademark since 2005, and on its website since 2006. That, therefore, the trademark has become prominent and distinctive.

That the Complainant has extensive promotional sponsorship activities, such as its partnership with football clubs pertaining to the English Premier League, which broadcasts football matches in 212 territories, with a global audience of over 4.7 billion.

That the Complainant has been active in social media. That in 2010 it obtained a Facebook account and has over 44,000 likes and 43,750 followers.

That the Complainant has a YouTube channel, which launched in 2009, and that one video published therein involving footballer Luis Suarez has over 1,300,000 views.

That due to the extensive use of the 188BET trademark, it has become well-known in the online sportsbook business.

### **I. Identical or Confusingly Similar**

That the disputed domain name entirely incorporates the Complainant's 188BET trademark.

That the disputed domain name incorporates an "s" after the 188BET trademark. That this addition does nothing to minimize the risk of confusion to the potential consumers who will associate the disputed domain name with the Complainant.

That the disputed domain name is a typosquatted version of the 188BET trademark.

### **II. Rights or Legitimate Interests**

That the Complainant makes a *prima facie* case that the Respondent lacks rights to or legitimate interests in the disputed domain name.

That the disputed domain name directs Internet users to an active website that purports to correspond to the Complainant.

That the Respondent does not have permission/authorization from the Complainant to use its trademark.

That the Respondent is not a licensee of the Complainant nor does have a connection or affiliation with the Complainant.

That the Respondent has no rights to use the 188BET trademark in the disputed domain name, and has not received any consent, express or implied, to do so.

That the Respondent does not have registered trademarks, or any other registered right to the 188BET trademark.

That the Respondent registered the disputed domain name through a privacy protection service, and therefore is not known by or has a common association with the disputed domain name.

That the disputed domain name resolves to a website that features the Complainant's trademark and masquerades it as being the Complainant or being connected to, affiliated with, or otherwise endorsed by the Complainant.

That the Respondent is not providing his own goods and services in good faith under his own trademark, but in fact seeks to confuse Internet users into thinking that the website to which the disputed domain name resolves is owned by or associated with the Complainant.

That the Respondent is trying to trade off the goodwill and reputation attached to the Complainant and its trademark.

That the Respondent is not making a legitimate, noncommercial or fair use of the disputed domain name. That, on the contrary, he is using the disputed domain name to deliberately mislead and/or divert consumers from the Complainant's official website.

That the Respondent is not commonly known by the disputed domain name.

That the Complainant has not granted a license or otherwise authorized the Respondent to use the Complainant's trademarks in any way.

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

That the Respondent registered and used the disputed domain name in bad faith.

That the Respondent likely knew the Complainant's prior rights in the 188BET trademark before registering the disputed domain name. That despite this, the Respondent registered in bad faith the disputed domain name that incorporates the Complainant's trademark.

That the disputed domain name falsely attempts to represent that the Respondent is the Complainant and/or that he is sponsored by, or affiliated to the Complainant.

That the website to which the disputed domain name resolves offers remote gaming services under the Complainant's trademark, whilst not being connected to the Complainant in any manner.

That the Respondent had the Complainant's trademarks in mind when registering the disputed domain name.

That Internet users are likely to be redirected to the disputed domain name when attempting to access the Complainant's website.

That the Respondent is using the disputed domain name to intentionally attract, for commercial gain, Internet users to the website to which the disputed domain name resolves, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement.

That the Respondent's typosquatting of the disputed domain name is an attempt to attract Internet users to the website to which the disputed domain name resolves, diverting them from reaching the Complainant's website, which is evidence of bad faith registration.

That the Respondent has registered and is using the disputed domain name with the intention of confusing Internet users into thinking that they are being redirected to a website owned by or affiliated with the Complainant, for commercial gain.

That the Respondent has not made any disclaimers stating that the Respondent is not affiliated with the Complainant or its 188BET trademark.

That the Respondent is trying to disrupt the Complainant's business by registering the disputed domain name with the intent to mislead consumers fraudulently and intentionally to the website to which the disputed domain name resolves.

That the Respondent is obtaining commercial gain by offering remote sportsbook/gaming services, in competition to those offered by the Complainant.

### **B. Respondent**

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

## 6. Discussion and Findings

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

- (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 was registered and is being used in bad faith.

Given the Respondent's failure to submit a formal Response, the Panel may decide this proceeding based on the Complainant's undisputed factual allegations, in accordance with paragraphs 5(f), 14(a), and 15(a) of the Rules, (see *Joseph Phelps Vineyards LLC v. NOLDC, Inc., Alternative Identity, Inc., and Kentech*, WIPO Case No. [D2006-0292](#)).

### A. Identical or Confusingly Similar

The disputed domain name is confusingly similar to the 188BET trademark since said disputed domain name includes it entirely, with the addition of the letter "s" at the end, which makes this a case of typosquatting, considering that it is an intentional misspelling of the Complainant's trademark (see section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"); see also *Schneider Electric S.A. v. Domain Whois Protect Service / Cyber Domain Services Pvt. Ltd.*, WIPO Case No. [D2015-2333](#); *Rolls-Royce plc v. John Holt.*, WIPO Case No. [D2017-1842](#); *Mastercard Prepaid Management Services Limited v. Cash SDS.*, WIPO Case No. [D2020-1938](#); and *ZB, N.A., a national banking association, dba Zions First National Bank v. Sharon White*, WIPO Case No. [D2017-1769](#)).

The addition of the generic Top-Level Domain ("gTLD") ".net" to the disputed domain name constitutes a technical requirement of the Domain Name System ("DNS"). Thus, it has no legal significance in assessing identity or confusing similarity in the present case (see *CARACOLITO S SAS v. Nelson Brown, OXM.CO*, WIPO Case No. [D2020-0268](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#); and *Bentley Motors Limited v. Domain Admin / Kyle Rocheleau, Privacy Hero Inc.*, WIPO Case No. [D2014-1919](#)).

Therefore, the first element of the Policy has been met.

### B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets forth the following examples as circumstances where a respondent may have rights to or legitimate interests in the disputed domain name:

- (i) before any notice to the respondent of the dispute, the use by the respondent of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if it did not acquire trademark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant has proven to be the owner of several registrations for the 188BET trademark in different jurisdictions.

The Complainant has asserted that there is no relationship or affiliation between the Complainant and the Respondent, that it has not granted any license, permission, authorization, or other rights to the Respondent to use its trademark, and that the Respondent has not been commonly known by the disputed domain name (see cases *Beyoncé Knowles v. Sonny Ahuja*, WIPO Case No. [D2010-1431](#); and *Six Continents Hotels, Inc.*

v. *IQ Management Corporation*, WIPO Case No. [D2004-0272](#)). The Respondent did not contest these allegations.

The Respondent's election of the disputed domain name, which consists of a typosquatted version of the Complainant's trademark, shows that the Respondent has targeted the Complainant, its trademarks, and its business. The Respondent took no measures whatsoever to make it clear to Internet users visiting the website to which the disputed domain name resolves, that it was not operated by the Complainant. Therefore, the Respondent's conduct cannot be considered a legitimate noncommercial or fair use of the disputed domain name (see *Wachovia Corporation v. Peter Carrington*, WIPO Case No. [D2002-0775](#) and *Edmunds.com, Inc. v. Digi Real Estate Foundation* WIPO Case No. [D2006-1043](#)).

The Complainant demonstrated that the website to which the disputed domain name resolves offers services that compete with those of the Complainant. The website to which the disputed domain name resolves displays extensively the Complainant's trademark, which shows that the Respondent's website constitutes an attempt to impersonate or pass off as the Complainant since it misleads Internet users as to the source or sponsorship of services similar to those provided by the Complainant, while clearly seeking a commercial gain (see sections 2.5.1, 2.5.2, and 2.5.3 of the [WIPO Overview 3.0](#), as well as UDRP cases *The Royal Edinburgh Military Tattoo Limited v. Identity Protection Service, Identity Protect Limited / Martin Clegg, WM Holdings*, WIPO Case No. [D2016-2290](#); *Fulham Football Club (1987) Limited, Tottenham Hotspur Public Limited, West Ham United Football Club PLC, Manchester United Limited, The Liverpool Football Club And Athletic Grounds Limited v. Domains by Proxy, Inc./ Official Tickets Ltd*, WIPO Case No. [D2009-0331](#); *Suncor Energy Inc. v. Whois Privacy Protection Service, Inc. / andre bechamp*, WIPO Case No. [D2012-2123](#); and *Segway Inc. v. Domains By Proxy, LLC / Arthur Andreasyan, NIM*, WIPO Case No. [D2016-0725](#)).

Panels appointed under the Policy have found that the use of a domain name for illegal activity, such as impersonation or passing off, cannot confer rights to or legitimate interests in a domain name (see section 2.13 of the [WIPO Overview 3.0](#); see also *Self-Portrait IP Limited v. Franklin Kelly*, WIPO Case No. [D2019-0283](#)).

The Complainant has established a *prima facie* case asserting that the Respondent lacks rights to or legitimate interests in the disputed domain name. The Respondent did not submit any evidence or arguments to challenge the Complainant's assertions.

Accordingly, the Complainant has satisfied the requirements of the second element of the Policy.

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

Bad faith under the Policy is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. According to paragraph 4(b) of the Policy, the following circumstances, in particular but without limitation, shall be evidence of registration and use in bad faith:

- (i) circumstances indicating that the respondent has registered or has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on its website or location.

The Complainant ascertained its rights over the 188BET trademark in several jurisdictions. The dates of registration of the Complainant's trademarks significantly precede the date of registration of the disputed domain name.

The disputed domain name incorporates the Complainant's trademark in its entirety. Through the website to which the disputed domain name resolves, the Respondent is impersonating the Complainant – especially given the use by the Respondent of the Complainant's logo. Internet users who encounter said website may believe that they are dealing with the Complainant, or a website somehow endorsed, authorized, or operated by the Complainant.

The typosquatting conduct of the Respondent amounts to bad faith registration of the disputed domain name (see *Lexar Media, Inc. v. Michael Huang*, WIPO Case No. [D2004-1039](#); *Wal-Mart Stores, Inc. v. Longo*, WIPO Case No. [D2004-0816](#); *Admiral Group Plc and EUI Limited v. Cimpres Schweiz, Cimpres Schweiz GmbH*, WIPO Case No. [DCO2017-0043](#); *MouseSavers, Inc. v. Mr. Henry Tsung d/b/a www.wwwwousesavers.com*, WIPO Case No. [D2004-1034](#); and *Boehringer Ingelheim Pharma GmbH & Co. KG v. Martin Hughes <boehringer-ingelheim.com>*, WIPO Case No. [D2016-1546](#)).

Taking the above into consideration, as well as the fact that the Respondent has targeted the Complainant, its services, and its clients, it is clear that the Respondent knew about the Complainant and its trademarks when the disputed domain name was registered. This conduct constitutes opportunistic bad faith registration under the Policy (see section 3.2.1 of the [WIPO Overview 3.0](#); see also *L'Oréal v. Contact Privacy Inc. Customer 0149511181 / Jerry Peter*, WIPO Case No. [D2018-1937](#); *Gilead Sciences Ireland UC / Gilead Sciences, Inc. v. Domain Maybe For Sale c/o Dynadot*, WIPO Case No. [D2019-0980](#); and *Boehringer Ingelheim Pharma GmbH & Co. KG v. Marius Graur*, WIPO Case No. [D2019-0208](#)).

The evidence submitted by the Complainant shows that the Respondent has attempted to attract Internet users to his website for commercial gain, by creating a likelihood of confusion with the Complainant as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, which constitutes bad faith under paragraph 4(b)(iv) of the Policy (see *1IQ PTY LTD v. 1337 Services LLC*, WIPO Case No. [D2017-2156](#); *Facebook, Inc., WhatsApp Inc. v. Wisdom King, Wizindo*, WIPO Case No. [D2019-2517](#)).

In light of the above, the third element of the Policy has been met.

## 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, <188bets.net> be transferred to the Complainant.

*/Kiyoshi Tsuru/*

**Kiyoshi Tsuru**

Sole Panelist

Date: July 5, 2022