

ADMINISTRATIVE PANEL DECISION

Navasard Limited v. Domain Administrator, See PrivacyGuardian.org /
Ebrahim Raeesi
Case No. D2022-2971

1. The Parties

Complainant is Navasard Limited, Cyprus, represented internally.

Respondent is Domain Administrator, See PrivacyGuardian.org, United States of America (“United States”) /
Ebrahim Raeesi, United States.¹

2. The Domain Name and Registrar

The disputed domain name <1xbet.direct> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 11, 2022. On August 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 12, 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 Complainant on August 15, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 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 Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

¹ It is evident from the case file that Domain Administrator, See PrivacyGuardian.org, United States, is a privacy protection service and that Ebrahim Raeesi, United States, is the underlying registrant of the disputed domain name. Therefore, unless otherwise indicated, the term “Respondent” is used by the Panel in the case at hand to refer to the latter underlying registrant only.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on August 26, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 15, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on September 30, 2022.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on October 5, 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

Complainant is a company organized since 2015 under the laws of Cyprus that is active in the online sports betting industry with a special focus on Eastern Europe.

Complainant has provided evidence that it is the registered owner of the following trademarks relating to its brand 1XBET:

- Word mark 1XBET, European Union Intellectual Property Office (EUIPO), registration number: 014227681, registration date: September 21, 2015, status: active;
- Word/design mark 1XBET, EUIPO, registration number: 013914254, registration date: July 27, 2015, status: active.

Respondent, according to the disclosed Whois information for the disputed domain name, is a resident of the United States who registered the disputed domain name on May 28, 2022. While Complainant states that by the time of the filing of the Complaint, the disputed domain name was not actively used *e.g.* to resolve to a website, by the time of the rendering of this decision, the disputed domain name, however, resolves to a website at "www.1xbet.direct", which apparently promotes – in a combination of Latin and Arabic letters – online betting services, thereby also displaying Complainant's 1XBET trademark.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties' Contentions

A. Complainant

Complainant contends to be nowadays one of the most recognized online sports betting brands in the territory of Eastern Europe.

Complainant submits that the disputed domain name is identical to its 1XBET trademark (as a word mark). Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Complainant has not granted Respondent any authorization or consent to use its 1XBET trademark, and the disputed domain name was not registered by any of Complainant's affiliated companies or licensees, and (2) there is no actual offering of goods or services under the disputed domain name, and Respondent does not intend to make any legitimate, commercial or fair use of the disputed domain name. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) Respondent is potentially illegally using the disputed domain name for purposes of potentially reselling it at a profit by taking advantage of the confusing similarity of the disputed domain name with the popular sports betting trademark held by Complainant, and (2) a lack of so-called active use of the disputed domain name does not as such prevent the finding of bad faith.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

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

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

The Panel concludes that the disputed domain name <1xbet.direct> is identical with the 1XBET trademark in which Complainant has rights.

The disputed domain name incorporates the 1XBET trademark in its entirety. Numerous UDRP panels have recognized that incorporating a trademark in its entirety is normally sufficient to establish that the disputed domain name is at least confusingly similar to a registered trademark (see WIPO Overview on WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7). Moreover, noting that the applicable Top-Level Domain ("TLD"), here the generic TLD ".direct" as such is disregarded under the first element confusing similarity test (see [WIPO Overview 3.0](#), section 1.11.1), and given that there are no other alterations or additions to Complainant's 1XBET trademark in the disputed domain name, it is reasonable to even find for identity between those two.

Therefore, Complainant has established the first element under the Policy set forth by paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Panel is further convinced on the basis of Complainant's undisputed contentions that Respondent has not made use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor has Respondent been commonly known by the disputed domain name, nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Respondent has neither been granted a license nor has it been otherwise authorized by Complainant to use its 1XBET trademark, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name and Respondent does not appear to have any trademark rights associated with the term "1XBET" on its own.

Against this background, there remain two different settings to be evaluated, given that – according to the case file – Respondent seems to have started using the disputed domain name only after the Complaint was filed: (1) under the assumption that the disputed domain name was only passively held – as stated by Complainant before filing the Complaint – UDRP panels, however, have recognized that the mere registration of a domain name, even one that is comprised of a confirmed dictionary word or phrase, does not by itself automatically confer rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#), section 2.10.1); (2) under the assumption that the disputed domain name was used to resolve

to a website at “www.1xbet.direct”, promoting online betting services, thereby also displaying Complainant’s 1XBET trademark without any authorization to do so – as recognized by the Panel at the time of the rendering of this decision – such use of the disputed domain name neither qualifies as *bona fide* nor as legitimate noncommercial or fair use within the meaning of paragraph 4(c) of the Policy.

Accordingly, Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in respect of the disputed domain name. Now, the burden of production shifts to Respondent to come forward with appropriate allegations or evidence demonstrating the contrary (see [WIPO Overview 3.0](#), section 2.1). Given that Respondent has defaulted, Respondent has not met that burden.

The Panel, therefore, finds that Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel finally holds that the disputed domain name was registered and is being used by Respondent in bad faith.

Again, two different scenarios need to be looked at:

Complainant submits that the disputed domain name was only passively held by Respondent, in which case the Panel finds that the general rule applies, that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding (see [WIPO Overview 3.0](#), section 3.3). While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include *e.g.*: the degree of distinctiveness or reputation of complainant’s mark, the failure of respondent to submit a response or to provide any evidence of actual or contemplated good faith use, or the implausibility of any good faith use to which the domain name may be put. Here, Complainant contends, and Respondent has not challenged this contention, that its 1XBET trademark is among the most recognized online sports betting brands in the territory of Eastern Europe, which is why it is highly unlikely that Respondent was not aware of Complainant’s 1XBET trademark rights by the time of the registration of the disputed domain name. In any case, Respondent has failed to submit any explanation as to why it needed to rely exactly on the term “1XBET” when it registered the disputed domain name. Accordingly, there is little, if no room for any plausible use of the disputed domain name which would not take unfair advantage by profiting from the undisputed reputation which Complainant’s 1XBET trademark enjoys. Against this background, a mere passive holding of the disputed domain name by Respondent is not in contrast to hold that Respondent has (or would have) still registered and is using the disputed domain name in bad faith within the larger meaning of paragraph 4(b) of the Policy.

The Panel notes, however, that at the time of this Decision the disputed domain name resolves to a website at “www.1xbet.direct”, which promotes – in a combination of Latin and Arabic letters – online betting services, thereby also displaying Complainant’s 1XBET trademark without any authorization to do so, which is a clear indication that Respondent intentionally attempts to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with Complainant’s 1XBET trademark as to the source, sponsorship, affiliation or endorsement of Respondent’s website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy, too.

In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the WhoIs register for the disputed domain name since, according to the email correspondence between the Center and the postal courier DHL of August 31, 2022, the Written Notice on the Notification of Complaint dated August 26, 2022, could not be delivered. This fact at least throws a light on Respondent’s behavior which supports the Panel’s bad faith finding.

Therefore, the Panel concludes that Complainant has also satisfied the third element under the Policy set forth by paragraph 4(a)(iii).

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, <1xbet.direct>, be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: October 19, 2022