

ADMINISTRATIVE PANEL DECISION

Cube Limited v. Ge Hua Sheng
Case No. D2022-4941

1. The Parties

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

The Respondent is Ge Hua Sheng, China.

2. The Domain Names and Registrars

The disputed domain names <188bet0.vip>, <188bet10.vip>, <188bet12.vip>, and <188bet24.vip> are registered with Go Canada Domains, Inc.

The disputed domain names <188bet2.vip>, <188bet4.vip>, <188bet22.vip>, and <188bet25.vip> are registered with Go Australia Domains, LLC.

The disputed domain names <188bet.pw>, <188bet5.vip>, <188bet14.vip>, <188bet23.vip>, and <188bet26.vip> are registered with GoDaddy.com, LLC.

The disputed domain names <188bet13.vip>, <188bet15.vip>, <188bet16.vip>, and <188bet21.vip> are registered with Go Montenegro Domains, Inc.

The disputed domain names <188bet7.vip>, <188bet20.vip>, <188bet29.vip>, and <188bet31.vip> are registered with Wild West Domains, LLC.

The disputed domain names <188bet1.vip>, <188bet9.vip>, <188bet19.vip>, and <188bet27.vip> are registered with Go China Domains, Inc.

The disputed domain names <188bet6.vip>, <188bet11.vip>, and <188bet28.vip> are registered with Go France Domains, LLC.

The disputed domain names <188bet3.vip>, <188bet17.vip>, <188bet18.vip>, and <188bet30.vip> are registered with Blue Razor Domains, LLC.

Hereinafter, the above-referenced Registrars are collectively referred to as the "Registrars".

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 22, 2022. On December 23, 2022, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On December 27 and 28, 2022, the Registrars transmitted by email to the Center their verification responses disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Domains by Proxy LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 5, 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 January 10, 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 January 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 13, 2023.

The Center appointed Luca Barbero as the sole panelist in this matter on February 20, 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 provides betting services as well as live and traditional casino entertainment services under the trademark 188BET via its website “www.188bet.com”.

The Complainant’s trademark 188BET has been used in sponsoring English Premier League (“EPL”) football clubs. The EPL is broadcast in 212 territories with a global TV audience estimated at 4.7 billion.

The Complainant is the owner of multiple trademark registrations for 188BET, including the following:

- United Kingdom trademark registration No. UK00908425324 for 188BET (word mark), registered on March 22, 2010, in classes 9, 28, 41, and 42;
- Hong Kong, China trademark registration No. 302702655 for 188BET (word mark), registered on August 12, 2013, in classes 9, 28, 41, and 42;
- United States of America trademark registration No. 5724600 for 188BET (figurative mark), registered on April 16, 2019, in international classes 9 and 41;
- Australia trademark registration No. 2161902 for 188BET (word mark), registered on March 10, 2021, in classes 9 and 41.

The Complainant is the owner of the domain name <188bet.com>, registered on December 28, 2005, and used by the Complainant since 2006 to provide its gambling services under the trademark 188BET.

The disputed domain name <188bet.pw> was registered on April 3, 2022. The disputed domain names <188bet0.vip>, <188bet1.vip>, <188bet10.vip>, <188bet11.vip>, <188bet12.vip>, <188bet13.vip>, <188bet14.vip>, <188bet15.vip>, <188bet16.vip>, <188bet17.vip>, <188bet18.vip>, <188bet19.vip>, <188bet2.vip>, <188bet20.vip>, <188bet21.vip>, <188bet22.vip>, <188bet23.vip>, <188bet24.vip>, <188bet25.vip>, <188bet26.vip>, <188bet27.vip>, <188bet28.vip>, <188bet29.vip>, <188bet3.vip>, <188bet30.vip>, <188bet31.vip>, <188bet4.vip>, <188bet5.vip>, <188bet6.vip>, <188bet7.vip>, and <188bet9.vip> were registered on June 3, 2022.

All the disputed domain names currently do not point to active websites. However, according to the documents and statements submitted by the Complainant – which have not been contested by the Respondent –, prior to the present proceeding, between June and August 2022, the disputed domain names pointed to active betting and gaming websites and, on their launch in June 2022, they initially resolved to a copycat website including the Complainant's 188BET trademarks. Subsequently, before becoming inactive, they were pointed to a competing betting and gaming website under the "KK Sports and Entertainment Group" brand.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the trademark 188BET in which the Complainant has rights as they reproduce the trademark in its entirety with the mere addition of numeral ranging from 1 to 31, (excluding the numeral 8) and the generic Top-Level Domains ("gTLD") ".pw" and ".vip", which does not minimize the risk of confusion to potential customers looking for the Complainant's website.

With reference to rights or legitimate interests in respect of the disputed domain names, the Complainant states that the Respondent has never been licensed, authorized or permitted by the Complainant to use any of its 188BET trademarks, logos or branding.

The Complainant further underlines that the Respondent is neither a licensee of the Complainant nor does it have any connection or affiliation with the Complainant whatsoever or any rights to use the Complainant's trademarks in the disputed domain names, and has not received any consent, express or implied, to do so.

Moreover, the Complainant highlights that the Respondent is also not commonly known by the disputed domain names and owns no registered trademarks identical or confusingly similar to the Complainant's trademarks.

In addition to the above and considering the initial use of the disputed domain names, which pointed to websites featuring the Complainant's trademarks whilst pretending to be connected, affiliated and/or endorsed by the Complainant - and subsequently - in August 2022, redirected to a website offering gaming and betting services under the name of "KK Sports and Entertainment Group", the Complainant submits that the Respondent was not providing a *bona fide* offering of goods or services under its own trademarks but in fact, was purposefully seeking to confuse Internet users into thinking its websites were owned by and/or affiliated with the Complainant, whilst exploiting and fraudulently trading off the goodwill and reputation attached to the Complainant, its brand and the Complainant's trademarks, including by redirecting them to competing websites.

In view of the above, the Complainant emphasizes that the Respondent was in no way making legitimate noncommercial or fair use of the disputed domain names without intent for commercial gain. The Complainant concludes that the Respondent is using the disputed domain names to deliberately mislead and/or divert Internet users from the Complainant's website, or to tarnish the Complainant trademark, brand and business.

With reference to the circumstances evidencing bad faith, the Complainant indicates that, considering the disputed domain names were registered 16 years after the Complainant had first commenced using its trademarks and given the Complainant's global reputation, the Respondent registered the disputed domain names with full knowledge of the Complainant, its services and its rights.

The Complainant emphasizes that further proof of the Respondent's bad faith registration can be found in the fact that the Respondent deliberately used a proxy agent to conceal its true identity when registering the disputed domain names.

The Complainant underlines that further bad faith use can be noted by the Respondent's use, especially prior to the present proceeding, of the disputed domain names to promote services offered by the Complainant and using the Complainant's trademarks and branding, purporting to offer remote gaming services whilst not being connected to the Complainant in any manner and without disclosing on its websites its lack of affiliation with the Complainant.

The Complainant also submits that the software previously used on the websites accessible from the disputed domain names which displayed the 188BET trademarks without consent is not from the Complainant or its licensors.

In view of the above, the Complainant contends that the Respondent clearly and intentionally attempted to attract, for commercial gain, Internet users to its websites, by creating a likelihood of confusion with the Complainant's 188BET trademarks, as to the source, sponsorship, affiliation and/or endorsement of the Respondent's websites and the services available from such websites. The Complainant also submits that the Respondent has also engaged in flagrant cybersquatting since it registered 32 disputed domain names using the Complainant's trademark 188BET, with the only intent of disrupting the Complainant's business and impeding the Complainant from reflecting its trademark and services in corresponding domain names.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable." Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

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

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark 188BET based on the trademark registrations cited under section 4 above.

It is well accepted that the first element functions primarily as a standing requirement, and that the threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between a complainant's trademark and the disputed domain names to assess whether the trademark is recognizable

within the disputed domain names (section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). Moreover, as stated in section 1.11 of the [WIPO Overview 3.0](#), the applicable Top-Level Domain (“TLD”) in a domain name is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.

In the case at hand, the disputed domain name <188bet.pw> is identical to the Complainant’s trademark 188BET as it entirely reproduces the Complainant’s trademark with the sole addition of the ccTLD “.pw”.

The additional 31 disputed domain names are confusingly similar to the trademark 188BET as they all incorporate the trademark with the mere addition of numbers ranging from 1 to 31 (excluding the numeral 8), and the gTLD “.pw” and “.vip”. Indeed, where the relevant trademark is recognizable within the disputed domain names, the addition of terms or even letters or numbers does not prevent a finding of confusing similarity under the first element (sections 1.8 and 1.9 of the [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the Complainant has proven that the disputed domain names are identical or confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant must show that the Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent may establish a right or legitimate interest in the disputed domain names by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

“(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate non-commercial 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 Panel finds that the Complainant has made a *prima facie* case and that the Respondent, by not submitting a Response, has failed to invoke any circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain names.

Moreover, it has been repeatedly stated that when a respondent does not avail himself of its right to respond to a complaint, it can be assumed in appropriate circumstances that the respondent has no rights or legitimate interests in the disputed domain names (*Nordstrom, Inc. and NIHC, Inc. v. Inkyu Kim*, WIPO Case No. [D2003-0269](#)).

The Panel notes that there is no relation, disclosed to the Panel or otherwise apparent from the record, between the Respondent and the Complainant. The Respondent is not a licensee of the Complainant, nor has the Respondent otherwise obtained an authorization to use the Complainant’s trademarks. Moreover, there is no element from which the Panel could infer a Respondent’s right over the disputed domain names, or that the Respondent might be commonly known by the disputed domain names.

As mentioned above, the disputed domain names prior to the present proceeding had been pointed to websites promoting gaming and sports betting services identical to the ones provided by the Complainant under the nearly identical domain name <188bet.com>. The screenshots submitted by the Complainant show that the disputed domain names were also used in the past to promote gaming and betting services under a brand of a Complainant’s competitor. In view of the above-described use, the Panel finds that the Respondent has not used the disputed domain names in connection with a *bona fide* offering of

goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

At present, the disputed domain names are not redirected to active websites. As held, amongst others, in *Teachers Insurance and Annuity Association of America v. Wreaks Communications Group*, WIPO Case No. [D2006-0483](#), absent some contrary evidence from a respondent, passive holding of a domain name does not constitute a legitimate noncommercial or fair use.

Therefore, the Panel finds that the Complainant has proven that the Respondent has no rights or legitimate interests in the disputed domain names according to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant proves that the disputed domain names were registered and are being used by the Respondent in bad faith.

As to the bad faith at the time of the registration, the Panel notes that, in light of the prior use of the trademark 188BET in connection with the Complainant's betting and gaming services, provided via the Complainant's website "www.188bet.com" since 2006, the Respondent was or could have been aware of the Complainant's trademark at the time of registration of the disputed domain names.

Indeed, in light of the fact that the Respondent previously made reference to the Complainant's trademarks on most of the websites to which the disputed domain names resolved, where services identical to the ones of the Complainant were promoted, the Panel finds that the Respondent clearly registered the disputed domain names with the Complainant's trademark in mind.

The Panel also finds that the Respondent's prior use of the disputed domain names in connection with websites providing betting and gaming services competing with the ones of the Complainant, using without authorization the Complainant's trademarks and also promoting, before their deactivation, services provided by a Complainant's competitor, amounts to bad faith under paragraph 4(b)(iv) of the Policy, since the Respondent intentionally attempted to attract Internet users to its websites for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of its websites.

As to the current use of the disputed domain names, the Panel notes that they do not resolve to active websites. Prior UDRP panels have found that passive holding does not prevent a finding of bad faith under certain circumstances, as decided, *i.a.*, in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

In the case at hand, in view of i) the distinctiveness of the Complainant's trademark 188BET; ii) the Respondent's registration of 32 domain names identical or confusingly similar to the Complainant's prior trademark; iii) the absence of any documented rights or legitimate interests of the Respondent in the disputed domain names; iv) the Respondent's failure to respond to the Complaint; v) the implausibility of any good faith use to which the disputed domain names may be put; and vi) the Respondent's use of a Whois privacy service to shield its contact details in the public Whois database, the Panel finds that the current passive holding of the disputed domain names by the Respondent does not prevent a finding of bad faith registration and use. See Section 3.3. of [WIPO Overview 3.0](#).

The Panel also finds paragraph 4(b)(ii) applicable in this case since the Respondent has registered the disputed domain names in order to prevent the Complainant from using its trademark and has clearly engaged in a pattern of such conduct since it has registered 32 domain names incorporating the Complainant's trademark 188BET. As stated in section 3.1.2 of the [WIPO Overview 3.0](#), "UDRP panels have held that establishing a pattern of bad faith conduct requires more than one, but as few as two instances of abusive domain name registration. This may include a scenario where a respondent, on separate occasions, has registered trademark-abusive domain names, even where directed at the same

brand owner. A pattern of abuse has also been found where the respondent registers, simultaneously or otherwise, multiple trademark-abusive domain names corresponding to the distinct marks of individual brand owners”.

Therefore, the Panel finds that the Complainant has also proven that the Respondent registered and is using the disputed domain names in bad faith according to 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 names, <188bet.pw>, <188bet0.vip>, <188bet1.vip>, <188bet10.vip>, <188bet11.vip>, <188bet12.vip>, <188bet13.vip>, <188bet14.vip>, <188bet15.vip>, <188bet16.vip>, <188bet17.vip>, <188bet18.vip>, <188bet19.vip>, <188bet2.vip>, <188bet20.vip>, <188bet21.vip>, <188bet22.vip>, <188bet23.vip>, <188bet24.vip>, <188bet25.vip>, <188bet26.vip>, <188bet27.vip>, <188bet28.vip>, <188bet29.vip>, <188bet3.vip>, <188bet30.vip>, <188bet31.vip>, <188bet4.vip>, <188bet5.vip>, <188bet6.vip>, <188bet7.vip>, and <188bet9.vip> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: March 7, 2023