

## **ADMINISTRATIVE PANEL DECISION**

Bet365 Group Limited v. Yang Chen

Case No. D2023-1986

### **1. The Parties**

The Complainant is Bet365 Group Limited, United Kingdom, represented by Mishcon de Reya LLP, United Kingdom.

The Respondent is Yang Chen, China.

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

The disputed domain names <coinbet365.net> and <metabet365.info> are registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint concerning the disputed domain name <metabet365.info> was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 4, 2023. On May 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <metabet365.info>. On May 5, 2023, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the disputed domain name <metabet365.info> which differed from the named Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 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 added the disputed domain name <coinbet365.net> to the amended Complaint filed on May 12, 2023, and requested consolidation due to the same underlying registrant information. On May 16, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name <coinbet365.net>. On May 17, 2023, the Registrar transmitted by email to the Center its verification confirming that the Respondent is listed as the registrant in the amended Complaint and providing the contact details.

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 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was June 8, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 9, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on June 15, 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**

Founded in 2000, the Complainant is one of the biggest online betting and gaming companies in the world, operating in around 140 countries to over 80 million customers. The Complainant is the holding company for the "bet365" group of companies and holds intellectual property rights in the BET365 name and trademarks. The Complainant licenses these rights to other members of the group, including Hillside (UK Sports) Limited, a wholly owned subsidiary of the Complainant that operates an affiliate program called "bet365 Partners".

Among others, the Complainant is the owner of the United Kingdom Trademark Registration No. UK00002456453 for the mark BET365, registered since January 16, 2009 for variety of goods and services.

The Complainant operates its business online via its main website "www.bet365.com" and the "bet365" mobile app. The domain name <bet365.com> was registered on August 4, 1999.

The Complainant's "bet365 Partners" affiliate program is operated at the website "www.bet365partners.com" by the general partner of Hillside (UK Sports) Limited. The domain name <bet365partners.com> was registered on September 12, 2019.

The disputed domain names <coinbet365.net> and <metabet365.info> were registered on May 29, 2022 and June 7, 2022, respectively, and have been resolving to identical websites marketing an affiliate program that is mostly identical to that run by the Complainant on the "www.bet365partners.com" website.

The websites at the disputed domain names prominently and extensively display the Complainant's trademark and logo; photos of the Complainant's signature office building; the Complainant's mailing address; as well as texts and designs almost identical to those used on the Complainant's "www.bet365partners.com" website.

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

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

The Complainant contends that the disputed domain names, which incorporate the entirety of its BET365 trademark are confusingly similar to it because the addition of the terms "coin" and "meta" to the trademark does not sufficiently distinguish the disputed domain names from the trademark.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain names and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy.

The Complainant contends that the Respondent has registered and is using the disputed domain names in bad faith. The Respondent's use of its trademark, logo, texts, and designs on the websites at the disputed domain names indicates the Respondent's awareness of its trademark prior to registration of the disputed domain names and the Respondent's intent to mislead users into believing that the websites at the disputed domain names are operated or authorized by the Complainant.

The Complainant requests that the disputed domain names be transferred from the Respondent to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Matter – Multiple Domain Names**

The Panel notes that paragraph 3(c) of the Rules provides that a complaint may relate to more than one domain name provided that the domain names are registered by the same domain name holder. Since the disputed domain names have been registered by the Respondent, the Panel finds that this criteria is fulfilled.

### **6.2 Substantive Matters – Three Elements**

Paragraph 15(a) of the Rules requires that the Panel's decision be made "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".

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that;

- (i) the 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 domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

#### **A. Identical or Confusingly Similar**

Under paragraph 4(a)(i) of the Policy, there are two requirements which the Complainant must establish, first that it has rights in a trademark or service mark, and second that the disputed domain names are identical or confusingly similar to the trademark or service mark.

It has been a consensus view among UDRP panels that if the complainant owns a nationally or regionally registered trademark, then it generally satisfies the threshold requirement of having trademark rights. The Complainant produced evidence of having registered rights in the BET365 trademark and for the purpose of this proceeding the Panel establishes that the trademark registration mentioned in section 4 above satisfies the requirement of having trademark rights for the purpose of the Policy.

Having determined the presence of the Complainant's trademark rights, the Panel next assesses whether the disputed domain names are identical or confusingly similar to the Complainant's trademark.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant's trademark and the domain name. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the domain name.

According to section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or

otherwise) would not prevent a finding of confusing similarity under the first element. Therefore, the addition of the terms “coin” and “meta” to the Complainant’s trademark in the disputed domain names does not prevent a finding of confusing similarity.

According to section 1.11.1 of the [WIPO Overview 3.0](#), the applicable Top-Level Domain (“TLD”) in a domain name (in this case “.net” and “.info”) is viewed as a standard registration requirement and as such is generally disregarded under the first element confusingly similar test.

The Panel finds that the disputed domain names are therefore confusingly similar to the Complainant’s trademark and that the first ground of the Policy is established.

## **B. Rights or Legitimate Interests**

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice of the dispute, its use of, or demonstrable preparation to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

According to section 2.1 of the [WIPO Overview 3.0](#), while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with the relevant evidence demonstrating its rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

In the present case, the Complainant has submitted sufficient and uncontested evidence that it holds well-established prior rights in the BET365 trademark. The Complainant has never authorized the Respondent to use its trademark, in domain names, or otherwise. There is no evidence that the Respondent is commonly known by the disputed domain names.

The websites at the disputed domain name effectively impersonate the Complainant. As mentioned above, the websites at the disputed domain names prominently and extensively display the Complainant’s trademark and logo; photos of the Complainant’s signature office building; the Complainant’s mailing address; as well as texts and designs almost identical to those used on the Complainant’s website.

UDRP panels have categorically held that the use of a domain name for illegal activity, such as impersonation/passing off, or other types of fraud can never confer rights or legitimate interests on a respondent (see section 2.13.1 of the [WIPO Overview 3.0](#)).

The Respondent failed to respond, and by doing so failed to offer the Panel any type of evidence set forth in paragraph 4(c) of the Policy, or otherwise counter to the Complainant’s *prima facie* case, and the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names in accordance with paragraph 4(a)(ii) of the Policy.

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

Paragraph 4(b) of the Policy lists a number of factors which, if found by the panel to be present, shall be evidence of registration and use of a domain name in bad faith. This non-exclusive list includes:

- (i) circumstances indicating that you have registered or you have 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) you have 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 you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your website or location or of a product or service on your website or location.

The Respondent incorporated the Complainant's widely used and prior registered trademark into the disputed domain names.

The websites at the disputed domain names prominently and extensively display the Complainant's trademark and logo; photos of the Complainant's signature office building; as well as texts and designs almost identical to those used on the Complainant's website. Also, the Respondent's websites contain hyperlinks which lead to the Complainant's official website and use the Complainant's mailing address in the "Contact Us" section.

Thus, it is clear that the Respondent had full knowledge of the Complainant's trademark at the time of registration of the disputed domain names and had registered them in order to take unlawful advantage of the Complainant's trademark.

The use to which the Respondent has put the disputed domain names in view of the Panel amounts to bad faith registration and use within the meaning of paragraph 4(b)(iv) of the Policy. The Respondent is using the disputed domain names to divert Internet traffic intended for the Complainant to its websites in order to obtain commercial gain through impersonation or false association.

The Respondent chose not to respond to the Complaint or rebut the Complainant's credible assertions and evidence. Therefore, the Panel finds that the disputed domain names were registered and are being used in bad faith within the meaning of 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 <coinbet365.net> and <metabet365.info> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: June 29, 2023