

ADMINISTRATIVE PANEL DECISION

978 Tech N. V. v. seo, Senh Sam
Case No. D2023-4092

1. The Parties

The Complainant is 978 Tech N. V., Curaçao, Netherlands (Kingdom of the), represented by Justec Legal Advisory Services LLC, United States of America (“United States”).

The Respondent is seo, Senh Sam, Philippines.

2. The Domain Name and Registrar

The disputed domain name <8xbet.ltd> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 29, 2023. On October 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 3, 2023, 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 (Privacy Guardian LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 4, 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 amendment to the Complaint on October 6, 2023.

The Center verified that the Complaint together with the amendment to the 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 October 9, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 29, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 30, 2023.

The Center appointed Assen Alexiev as the sole panelist in this matter on November 1, 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 is the owner and operator of the betting website at the domain name <8xbet.com>. It is also one of the major sponsors of the Manchester City Football Club. The Complainant claims to be the largest betting site in Asia.

The Complainant has filed the following trademark applications for the sign 8XBET (the “8XBET trademark application”):

- the United States trademark 8XBET with application No. 97939901, filed on May 16, 2023, for services in International Class 41;
- the United States trademark 8XBET with application No. 97939910, filed on May 16, 2023, for services in International Class 41.

The Complainant’s two 8XBET trademark applications declare that the applied-for trademark has been used in commerce since January 1, 2022.

The disputed domain name was registered on June 12, 2023. It resolves to a Vietnamese language gambling website with the header “8Xbet – Top betting official 8Xbet homepage”, which prominently features the Complainant’s 8XBET trademark and logo, numerous photos of Manchester City FC players and the emblem of the same club with the text “Champions of Europe 2022/2023”, as well as the following statements (translated from Vietnamese):

“8xbet, the leading bookmaker in Asia, especially for Vietnamese gamers, has proven its extremely strong appeal. With reliable cooperation with a series of leading game manufacturers around the globe, the game store here is always supplemented with the newest and most attractive versions. In particular, 8xbet com offers a series of irresistible offers. [...]”

“Regulated and licensed by the Government of Curacao and operates under a Game Service Provider master license.”

The website at the disputed domain name also includes the copyright notice “*Copyright 2023 © 8xbet.ltd*”.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant submits that it started its business under the 8XBET trademark in January 2022 and has since then become the largest betting website in Asia and one of the leading online gambling websites in the world. The Complainant points out that it is one of the major sponsors of the Manchester City Football Club which has won the UEFA championship for the 2022/2023 season. According to the Complainant, as a result of its activities the 8XBET trademark has gained widespread recognition among consumers and has become a distinctive sign which consumers began to associate with the Complainant’s goods and services prior to the Respondent’s registration of the disputed domain name.

The Complainant submits that the disputed domain name is confusingly similar to its 8XBET trademark, because it incorporates the trademark in its entirety.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because the Complainant has never authorized it to use the 8XBET trademark or to register any domain name corresponding to it, and the Respondent is not commonly known under the disputed domain name and has no intellectual property rights relating to it. The Complainant points out that the Respondent has not used, nor made preparations to use, the disputed domain name in connection with a *bona fide* offering of goods or services.

According to the Complainant, the disputed domain name and the associated website are designed to create a false association with the Complainant by evoking the Complainant's 8XBET trademark and other intellectual property, thereby capitalizing on the Complainant's reputation and goodwill and the success of the Complainant's business. The Complainant notes that the website at the disputed domain name prominently features images of the Manchester City Football Club players and associated colors and imagery, while purporting to offer the same gambling services as those offered by the Complainant and using content from the Complainant's website in an attempt to deliberately mislead users into believing that the website at the disputed domain name is owned by or affiliated with the Complainant. The Complainant maintains that, to the best of its knowledge, the Respondent has no legitimate right to allow gambling on its website.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the Respondent deliberately attempts to attract, for commercial gain, Internet users to the website at the disputed domain name by creating a likelihood of confusion with the Complainant's 8XBET trademark to fraudulently portray some form of sponsorship, affiliation or endorsement between the website at the disputed domain name and its offerings and the Complainant's business and intellectual property.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

Based on the available record, the Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

As discussed in section 1.3 of the [WIPO Overview 3.0](#), to establish unregistered or common law trademark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant's goods and/or services. Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (*e.g.*, consumer, industry, media) recognition, and (v) consumer surveys. Particularly with regard to brands acquiring relatively rapid recognition due to a significant Internet presence, panels have also been considering factors such as the type and scope of market activities and the nature of the complainant's goods and/or services. The fact that a respondent is shown to have been targeting the complainant's mark (*e.g.*, based on the manner in which the related website is used) may support the complainant's assertion that its mark has achieved significance as a source identifier.

Here, the evidence shows that the Complainant has become one of the major sponsors in Asia of Manchester City Football Club, which has won the UEFA Champions League competition for the 2022/2023 season. This partnership must have generated substantial media presence and attention for the Complainant, which claims to be the largest betting website in Asia and one of the leading online gambling websites in the world. The disputed domain name is identical to the Complainant's 8XBET trademark and the associated website explicitly targets that trademark and the Complainant. The website prominently displays the 8XBET trademark and logo, includes numerous images and references to Manchester City Football Club and its players and its recent Champions League trophy, and contains explicit statements that directly refer to the Complainant's official website at the domain name <8xbet.com>: "8xbet com offers a series of irresistible offers and confirms the Complainant's prominent position in the online gambling market: "8xbet, the leading bookmaker in Asia".

In light of the above and the nature of the Complainant's online gambling business, the Panel accepts that it is more likely than not that this business has indeed grown rapidly since its inception in January 2022 and that the 8XBET trademark, although still unregistered, has become a distinctive identifier that a significant number of consumers associate with the Complainant's gambling services. The fact that the Respondent is targeting the Complainant's trademark, supports the finding that the mark has achieved significance as a source identifier. This is sufficient to find that the Complainant has established unregistered trademark rights in the 8XBET trademark for the purposes of the Policy.

The Panel finds the entirety of the 8XBET trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the 8XBET trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel therefore finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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 relevant evidence demonstrating 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

Panels have held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The disputed domain name is identical to the Complainant's 8XBET trademark and thus carries a high risk of implied affiliation with the Complainant. The associated website prominently displays the same trademark and contains numerous references and images relating to Manchester City Football Club, its players and its recent UEFA Champions League trophy, and refers to the Complainant's website at the domain name <8xbet.com> without including any disclaimer of the lack of relationship between the Parties. The website also claims copyright over its content and states that it has been licensed to operate by the authority in the Complainant's jurisdiction. Taken together, this not only increases the risk of implied affiliation with the Complainant, but effectively impersonates it. Such activity cannot confer on the Respondent any rights or legitimate interests in the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

As discussed in sections 3.8.1 and 3.8.2 of the [WIPO Overview 3.0](#), where a respondent registers a domain name before the complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent. As an exception to this general proposition, in certain limited circumstances where the facts of the case establish that the respondent's intent in registering the domain name was to unfairly capitalize on the complainant's nascent (typically as yet unregistered) trademark rights, panels have been prepared to find that the respondent has acted in bad faith. Such scenarios include registration of a domain name: (i) shortly before or after announcement of a corporate merger, (ii) further to the respondent's insider knowledge (e.g., a former employee), (iii) further to significant media attention (e.g., in connection with a product launch or prominent event), or (iv) following the complainant's filing of a trademark application.

Here, the Respondent registered the disputed domain name less than one month after the Complainant filed its 8XBET trademark applications and approximately one and a half years after the Complainant commenced its betting business under the 8XBET brand. As discussed above in this decision, the Complainant must have received significant media attention following the commencement of its partnership with Manchester City Football Club. The Respondent itself acknowledges both this partnership and the Complainant's prominent position in the gambling market, and its choice of a domain name that is identical to the Complainant's 8XBET trademark carries a high risk of implied association with the latter, as well as the creation of the associated website impersonating the Complainant, show that the Respondent must have targeted the Complainant with the registration and use of the disputed domain name in an attempt to capitalise on the Complainant's as yet unregistered 8XBET trademark. This supports a finding that the Respondent acted in bad faith.

Based on the available record, the Panel therefore finds that the third element of the Policy has been established.

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, <8xbet.ltd> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: November 10, 2023