

ADMINISTRATIVE PANEL DECISION

Cube Limited v. Ji Leang Taing and Translation Failed Translation Failed Case No. D2023-4734

1. The Parties

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

The Respondents are Ji Leang Taing, Cambodia (the “First Respondent”), and Translation Failed Translation Failed¹, (the “Second Respondent”).

2. The Domain Names and Registrars

The disputed domain name <win188.net> is registered with Register.com, Inc., and the disputed domain name <188ss.com> is registered with GoDaddy.com, LLC (together, the “Registrars”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2023. On November 15, 2023, the Center transmitted by email to the Registrars requests for registrar verification in connection with the disputed domain names. On November 16 and November 18, 2023, 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 Respondents (Domains by Proxy LLC, and Perfect Privacy LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on November 24, 2023 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, inviting the Complainant to either file a separate complaint for the disputed domain names associated with a different underlying registrants or alternatively, to demonstrate that the underlying registrants are in fact the same entity. The Complainant filed an amended Complaint on November 29, 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”).

¹ The Registrar GoDaddy.com, LLC confirmed that it had no other details to provide for the registrant of the disputed domain name <188ss.com> and that it had no information about its registrant country.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondents of the Complaint, and the proceedings commenced on December 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 21, 2023. The Respondents did not submit any formal response. On December 1, 2023, the First Respondent Ji Leang Taing sent an informal email communication to the Center.

The Center appointed Assen Alexiev as the sole panelist in this matter on January 15, 2024. 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 operates a betting website at the domain name <188bet.com>. It is the owner of the following trademark registrations containing “188” or “188BET”:

- the European Union trademark 188 with registration No. 008390379, registered on March 22, 2010 for goods and services in International Classes 9, 28, 41 and 42;
- the European Union trademark 188BET with registration No. 008425324, registered on March 22, 2010 for goods and services in International Classes 9, 28, 41 and 42;
- the combined European Union trademark 188BET with registration No. 008449597, registered on March 22, 2010 for goods and services in International Classes 9, 28, 41 and 42; and
- the combined United States trademark 188BET with registration No. 5724600, registered on April 16, 2019 for goods and services in International Classes 9 and 41.

The details about the registration and use of the disputed domain names are the following:

Disputed domain name	Registrant	Date of registration	Use
<188ss.com>	Translation Failed Translation Failed	May 23, 2010	Currently inactive. At the time of filing of the Complaint, it resolved to a betting and casino website
<win188.net>	Ji Leang Taing	May 14, 2011	Resolves to a betting and casino website

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 names.

The Complainant submits that the disputed domain names are confusingly similar to its 188 and 188BET trademarks. The disputed domain name <188ss.com> wholly incorporates the 188 trademark with the addition of the non-distinctive letters “ss”, which do not prevent the confusing similarity with the trademark. Similarly, the disputed domain name <win188.net> wholly incorporates the Complainant’s 188 trademark with the addition of the dictionary word “win”, which also does not prevent the confusing similarity with the trademark.

According to the Complainant, the Respondents have no rights or legitimate interests in respect of the disputed domain names, because they are not commonly known by them, have no registered trademarks or trade names corresponding to the disputed domain names, and have not been authorized to use the Complainant's trademarks.

The Complainant contends that the Respondents are not carrying out a *bona fide* offering of goods or services, but are purposefully seeking to confuse Internet users that the websites at the disputed domain names are owned by or affiliated with the Complainant, in order to exploit the goodwill and reputation of the Complainant and its trademarks.

The Complainant states that the disputed domain name <188ss.com> resolves to a website that displays a variation of the 188BET combined trademark which has the same appearance, but the word "bet" is replaced by "win", and utilizes the same color scheme as the Complainant's website, and offers betting and casino services by a competitor of the Complainant, thus taking an unfair advantage of the reputation of the Complainant. In the Complainant's view, the replacement of the word "bet" by "win" in the Respondent's logo adds to the user confusion, as both words are indicative of the services offered by the Complainant. The Complainant adds that the website at the disputed domain name <188ss.com> includes a copyright notice located at the middle of the webpage which states "188WIN.net ALL RIGHT RESERVED". This notice suggests that the website is owned by the owners of the domain name <188win.net> which was transferred to the Complainant pursuant to the decision in the recent case *Cube Limited v Ji Leang Taing*, WIPO Case No. [D2023-2683](#).

The Complainant further states that the disputed domain name <win188.net> resolves to a sportsbook and gaming website that again offers the services of a competitor of the Complainant. The Complainant points out that although this website does not contain the same variation of 188BET trademark as the website at the disputed domain name <188ss.com>, it nevertheless contains a similar 188 WIN device mark that uses the same distinctive orange and white color scheme as the Complainant's 188BET trademark.

The Complainant contends that the disputed domain names were registered and are being used in bad faith. It states that it has a long-established reputation in the 188 trademarks in relation to the provision of online sportsbook/gaming services since 2006. It points out that the registration of the disputed domain names occurred in 2010 and 2011, several years after the Complainant started using the 188 trademark. According to the Complainant, the Respondents knew of the Complainant's prior rights in the 188 trademark before registering the disputed domain names and creating the associated websites.

According to the Complainant, the registration of the disputed domain names was made with the intention to disrupt the Complainant's business, in an attempt to take advantage of the goodwill and reputation in the Complainant's trademarks for commercial gain by offering competing sports betting and gaming services to players under a brand and layout that intentionally suggest an affiliation or connection with the Complainant.

The Complainant adds that the operator of the websites at the disputed domain names attempted to conceal its identity by registering the disputed domain names anonymously through proxy services.

B. Respondents

The Respondents did not formally reply to the Complainant's contentions.

With its informal email of December 1, 2023, the First Respondent Ji Leang Taing stated:

"This absolutely absurd !! On what terms are the compliant complaining about. They have no rights. My page is private member access page. I would definitely dispute the claims. Please have a look at my website and how can it be same as theirs. Please show proof of compliant. [...]"

6. Discussion and Findings

6.1. Procedural issue – Consolidation of Respondents

The amended Complaint was filed in relation to nominally different domain name registrants. The Complainant requests the consolidation of multiple disputed domain name registrants pursuant to paragraph 10(e) of the Rules. In support of its consolidation request, the Complainant points out the following:

- the disputed domain names host similar content, share similar features, display variations of a similar banner and adopt a nearly identical layout;
- the website at the disputed domain name <188ss.com> contains links that redirect to the website at the other disputed domain name <win188.net>, which indicates a level of interconnectedness and common control;
- the website at the disputed domain name <188ss.com> includes a copyright notice located at the middle of the webpage which states “188WIN.net ALL RIGHT RESERVED”.

According to the Complainant, the above shows that the disputed domain names are under common control and that their registrants have engaged in a common conduct affecting the Complainant’s business. The Complainant adds that it would be fair, equitable and procedurally efficient to permit the consolidation rather than require the Complainant to file two separate Complaints in relation to similar subject matter and interconnected registrations.

The disputed domain name registrants did not comment on the Complainant’s request.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant’s request, the Panel will consider whether (i) the disputed domain names or corresponding websites are subject to common control; and (ii) the consolidation would be fair and equitable to all Parties. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 4.11.2.

As regards common control, the Panel notes that the evidence in the case shows that the websites at the disputed domain names indeed offer similar services, and the website at the disputed domain name <188ss.com> contains links that redirect to the website at the other disputed domain name <win188.net>. This, combined with the fact that neither of the Respondents has disputed the Complainant’s allegation that they are connected with each other, leads the Panel to the conclusion that it is more likely than not that the registrants of the disputed domain names are acting on concert or are under common control.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different disputed domain name registrants (referred to below as “the Respondents”) in a single proceeding.

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 3.0](#), section 1.7.

The Complainant has shown rights in respect of the 188 trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the 188 trademark is recognizable within the disputed domain names. Accordingly, the disputed domain names are confusingly similar to the 188 trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, “ss” and “win”, respectively) may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain names and the 188 trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel finds 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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available record, the Panel finds the Complainant has established a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names. The Respondents have not rebutted the Complainant’s *prima facie* showing and have not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

As discussed in section 2.5.1 of the [WIPO Overview 3.0](#), where a domain name consists of a trademark plus an additional term (at the second- or top-level), UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. Certain additional terms within the trademark owner’s field of commerce or indicating services related to the brand may or may not by themselves trigger an inference of affiliation, and would normally require a further examination by the panel of the broader facts and circumstances of the case – particularly including the associated website content – to assess potential respondent rights or legitimate interests.

The disputed domain names are confusingly similar to the 188 trademark, which they incorporate in combination with the dictionary term “win”, which is indicative of the gambling and casino games protected by the 188 trademark. The evidence shows that when it was active, the website at the disputed domain name <188ss.com> offered betting and casino services, which are identical or similar to the services offered by the Complainant. The website displayed the logo “188WIN” in which the number “188” was written over a distinctive orange pentagon – a combination that was visually identical to the one included in the combined 188BET trademark and in the logo on the Complainant’s website. The provider of the services was not identified and there was no disclaimer for the lack of relationship with the Complainant. The same website also contained links that redirected to the website at the other disputed domain name <win188.net>, which also offers betting and casino services that appear to be competing with the Complainant’s services. In the Panel’s view, all this created a false appearance that the gambling and casino games offered on the websites at the disputed domain names are provided by or have a connection to the Complainant. The disputed domain names and the associated websites thus effectively impersonated or falsely suggested sponsorship or endorsement by the Complainant. Such scheme cannot support a finding of rights or legitimate interests of the Respondents in the disputed domain names.

Furthermore, while the Panel notes the First Respondent's claim in his email of December 1, 2023 that his website is different from the one of the Complainant, he does not support any evidence of this.

The Panel therefore finds that 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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity (here, claimed impersonation/passing off) constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondents' registration and use of the disputed domain names constitutes bad faith under the Policy.

Here, the Respondents have registered domain names that are confusingly similar to the Complainant's 188 trademark, and have used them to offer gambling and casino services under the brand "188WIN", which is also confusingly similar to the Complainant's trademark, and these services appear to be in competition with the Complainant's own services. As already discussed, it is more likely that the Respondents are acting in concert or are under common control. The disputed domain names were registered and the Respondents began offering their services years after the Complainant registered its 188 trademark and began using it in its business, and the Respondents have not denied their knowledge of the Complainant and of its 188 products. This knowledge is also evident from the Respondents' previous use of the graphical orange pentagon element on which the number 188 is written on the logo used on the Respondents' website at the disputed domain name <188ss.com>, which combination is identical to the logo included in the combined 188WIN trademark of the Complainant. All this supports a finding that, on the balance of probabilities, the Respondents have registered and have used the disputed domain names targeting the Complainant in an attempt to disrupt its business, and that they have intentionally attempted to attract, for commercial gain, Internet users to the disputed domain names and to the associated websites by creating a likelihood of confusion with the Complainant's 188 trademark as to the source or affiliation of the Respondents' websites and of the services offered thereon. This supports a finding of bad faith registration and use of the disputed domain names under paragraphs 4(b)(iii) and 4(b)(iv) of the Policy.

This conclusion is further supported by the fact that the website at the disputed domain name <188ss.com> included a copyright notice which stated "188WIN.net ALL RIGHT RESERVED". As noted by the Complainant, this notice suggests that the website is related to the First Respondent, who was also the registrant of the domain name <188win.net>, which was the subject-matter of the recent WIPO case between the same Parties - *Cube Limited v Ji Leang Taing*, WIPO Case No. [D2023-2683](#), where the First Respondent was found to have acted in bad faith.

The Panel therefore finds that the Complainant has established the third element 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 <win188.net> and <188ss.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: January 23, 2024