

ADMINISTRATIVE PANEL DECISION

Kaizen Gaming International Limited v. Dilafruz Erdonova
Case No. D2023-5368

1. The Parties

The Complainant is Kaizen Gaming International Limited, Malta, represented by Ubilibet, Spain.

The Respondent is Dilafruz Erdonova, Ukraine

2. The Domain Name and Registrar

The disputed domain name <bettano.net> (the “Domain Name”) is registered with Gandi SAS (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 27, 2023. On December 28, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On December 29, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (SUPRIME POUR DES RESONS DE CONFIDENTIALITE) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 2, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On January 2, 2024, the Center informed the parties in English and French, that the language of the registration agreement for the Domain Name is English. On January 3, 2024, the Complainant submitted the Complaint translated into English. The Respondent did not submit any comment on the Complainant’s submission.

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, 2024. In accordance with the Rules, paragraph

5, the due date for Response was January 31, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 1, 2024.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on February 5, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant operates within the gambling and entertainment industry under the BETANO brand. It has expanded its business presence to 12 countries across Europe and America, including Portugal, Brazil, Romania, Germany, Bulgaria, the Czech Republic, Chile, Peru, Ecuador, and Canada. In 2022 its platforms hosted more than 220 million transactions, exceeding the figure of 7 million active users. The Complainant offers numerous sports sponsorships, and it has received international awards and recognitions.

The Complainant is the owner of several trademark registrations for BETANO, such as European Union trademark registration number 014893671 registered on December 10, 2015. The Complainant's trademarks predate the registration of the Domain Name.

The Domain Name was registered on December 6, 2022. The Complainant has documented that until November 21, 2023, the Domain Name has resolved to a webpage that presented itself under the name "betano", replicated the Complainant's logo and closely mimicked the look and feel of the Complainant's webpage. Following November 21, 2023, and at the time of drafting the Decision, the Domain Name resolved to a website informing that access was blocked.

5. Parties' Contentions

A. Complainant

The Complainant provides evidence of trademark registrations and contends that the Domain Name is almost identical to the Complainant's trademark with the only difference being the addition of a typo in the form of an extra "t" letter, subsequent to the "t" letter in the Complainant's trademark.

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the Domain Name. The Complainant asserts that the Respondent is not affiliated with the Complainant. The Respondent has not been granted any license to use the trademark nor was the Respondent otherwise authorized by the Complainant to use the trademark. There is no evidence of the Respondent's use of the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services.

Based on the use of the Domain Name, the Complainant argues that the Respondent was aware of the Complainant's trademark and business when the Respondent registered the Domain Name. The Respondent's use – set up a webpage that mimics the Complainant's webpage – is also evidence of bad faith use.

B. Respondent

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

6. Discussion and Findings

6.1. Procedural issue

Under paragraph 10 of the Rules, the Panel is required to ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case, and also that the administrative proceeding takes place with due expedition. As the Respondent's mailing address is stated to be in Ukraine, subject to an international conflict at the date of this Decision that may impact case notification, it is appropriate for the Panel to consider whether the proceeding should continue.

Having considered all the circumstances of the case, the Panel is of the view that it should.

The Panel notes that the courier was not able to deliver the written notice to the Respondent's address in Ukraine. However, the Complaint was delivered to the Respondent's email address provided by the Registrar without receiving any delivery failure response, and the Respondent has not opposed to the continuation of the proceedings. The Complainant has specified in the Complaint that any challenge made by the Respondent to any decision to transfer the Domain Name shall be referred to the jurisdiction of the courts of the location of the concerned registrar, which is France. Moreover, as described below, the Panel has no doubt that the Respondent registered and has used the Domain Name in bad faith to target the Complainant and mislead consumers.

6.2 Substantial Issues

A. Identical or Confusingly Similar

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 Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has established that it has rights in the trademark BETANO. In this case, the Domain Name is identical to the Complainant's trademark, save the added letter "t". The addition does not prevent a finding of confusing similarity between the Domain Name and the trademark. It appears to be an intentional misspelling of the Complainant's trademark (typosquatting). [WIPO Overview 3.0](#), section 1.9. For the purpose of assessing under paragraph 4(a)(i) of the Policy, the Panel may ignore the gTLD. [WIPO Overview 3.0](#), section 1.11.1.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which a 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.

Based on the evidence, the Respondent is not affiliated or related to the Complainant in any way. There is no evidence that the Respondent has registered the Domain Name as a trademark or acquired trademark rights. There is no evidence of the Respondent's 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. On the contrary, the Respondent's use is evidence of bad faith, see below. The Panel further finds that the composition of the Domain Name, carries a risk of implied affiliation with the Complainant.

The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

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.

The Respondent most likely knew of the Complainant when he registered the Domain Name, given the composition and use of the Domain Name. The Respondent's use of the Domain Name is clear evidence of bad faith under the Policy. The Panel finds that this is a clear-cut example of typosquatting, with the Domain Name being registered and used for the purpose of taking unfair advantage of the similarity between the Domain Name and the Complainant's trademark.

Based on the available record, the Panel 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 the Domain name <bettano.net> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: February 10, 2024