

ADMINISTRATIVE PANEL DECISION

Navasard Limited v. 胡雪 (Ni Cary)

Case No. D2024-0512

1. The Parties

The Complainant is Navasard Limited, Cyprus, internally represented.

The Respondent is 胡雪 (Ni Cary), China.

2. The Domain Name and Registrar

The disputed domain name <1xbet.tech> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the "Center") on February 1, 2024. On February 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 6, 2024, 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 and contact information in the Complaint. In response to a notification by the Center that the Complaint was administratively deficient, the Complainant filed an amended Complaint in English on February 6, 2024.

On February 6, 2024, the Center informed the Parties in Chinese and English, that the language of the Registration Agreement for the disputed domain name is Chinese. On February 7, 2024, the Complainant requested English to be the language of the proceeding. 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 in Chinese and English of the Complaint, and the proceedings commenced on February 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 7, 2024.

The Center appointed Andrew Sim as the sole panelist in this matter on March 19, 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 is a limited liability company registered in Cyprus and has been in existence since March 9, 2015.

The Complainant is the owner of the trademark 1XBET (the "Mark"), which is used for the sport betting. The Mark is registered in the European Union Intellectual Property Office, with details as set out below:

Description	Registration number	Registration date	Class under Nice Classification
 (logo)	013914254	July 27, 2015	35, 41, 42
1XBET (word)	014227681	September 21, 2015	35, 41, 42

The disputed domain name was registered on May 26, 2023. At the time of filing of the Complaint, the Complainant asserts that the disputed domain name was inactive. At the time of filing of the language request and this decision, the disputed domain name redirects Internet users to a website where the disputed domain name is offered for sale and it is possible to "buy now" at the price of USD 400.

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.

Firstly, the Complainant contends that the disputed domain name is identical or confusingly similar to the Mark in which the Complainant has rights, as the disputed domain name is identical to the alpha-string of the Mark before the applicable suffix.

Secondly, the Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is potentially illegally using it for the purpose of potentially re-selling the same at a profit. The Respondent does not intend to make any legitimate use of the disputed domain name either and there is no actual offering of goods and services. Further, the Respondent is not making any noncommercial or fair use of the disputed domain name.

Thirdly, the Complainant submits that the disputed domain name was registered and is being used in bad faith, noting that the lack of active use of the disputed domain name or mere passive holding of the same does not prevent a finding of bad faith on the part of the Respondent.

B. Respondent

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

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that (i) the Registrar's website is available in the English language; (ii) the Respondent is clearly familiar with the English language because the disputed domain name is in English, consisting of the English words "1xbet" and "tech"; (iii) the displayed content on the website at the disputed domain name is in English; and (iv) the Complainant will be put through significant costs and additional burden if the Complaint had to be translated into Chinese. It is the Complainant's position that conducting the proceeding in a language other than English would create an unfair barrier to the Complainant.

In exercising its discretion to use a language other than that of the Registration Agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1).

The Panel accepts the Complainant's submissions regarding the language of the proceeding. The Complainant may be unduly disadvantaged by having to conduct the proceeding in Chinese. The Panel further notes that the Center has notified the Respondent in both Chinese and English of the language of the proceeding and commencement of the proceeding. The Respondent chose not to comment on the language of the proceeding nor respond to the Complaint in either English or Chinese. Having considered all relevant circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2 Substantive Matter: Three Elements

Under the Policy, the Complainant must prove that:

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

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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

A generic Top-Level Domain ("gTLD") extension (".tech") is added to the disputed domain name. However, as a standard requirement of domain name registration, the gTLD may be disregarded in the comparison between the disputed domain name and the Mark. Accordingly, ".tech" is disregarded for the present purpose. [WIPO Overview 3.0](#), section 1.11.

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 Respondent lacks rights or legitimate interests in the disputed domain name. 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 was inactive and then resolves to a website where the disputed domain name is offered for sale. The Panel does not find such use constitutes a bona fide offering of goods or services, nor is it a legitimate noncommercial or fair use.

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.

Noting that the Mark does not correspond to a dictionary term and is known in the relevant industry, the Panel finds that the Respondent cannot credibly claim to have been unaware of the Mark. Panels have been prepared to infer under the circumstances that the respondent knew, or should have known of the complainant and that its registration would target a complainant's mark. [WIPO Overview 3.0](#), sections 3.2.2.

In the present case, the Panel notes that the disputed domain name resolves to a website where the disputed domain name is offered for sale at a price that is likely higher than the price for registering an ordinary domain name. Together with the irresistible finding that the Respondent knew or should have known of the Mark, this is indicative that the Respondent has registered the disputed 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 Mark, or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's out-of-pocket costs directly related to the disputed domain name. The previous non-use of the disputed domain name does not change the Panel's finding in the Respondent's bad faith under the doctrine of passive holding.

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 that the disputed domain name <1xbet.tech> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: April 2, 2024