

## **ADMINISTRATIVE PANEL DECISION**

Kaizen Gaming International Limited v. Cameron Gilpin  
Case No. D2024-0600

### **1. The Parties**

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

The Respondent is Cameron Gilpin, Australia.

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

The disputed domain name <betano-bulgaria.com> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 7, 2024. On February 9, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 9, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 13, 2024, 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 amended Complaint on February 14, 2024.

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 February 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 8, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on March 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, a fast-growing operator in the gambling and entertainment industry, is an entity within the Kaizen Gaming group of companies.

Since its establishment in 2012, the Complainant, operating under the BETANO brand has expanded its business to 12 countries across Europe, North and South America. As of 2022 the Complainant's platforms hosted more than 220 million transactions, exceeding seven million active users.

The Complainant's sponsoring activities of athletes, football clubs and major international sporting events include among others sponsoring of the FIFA World Cup Qatar 2022, whose final game, with a record 1.5 billion people watching on television, became one of the most widely watched televised sporting events in history.

The Complainant's extensive portfolio of trademarks consisting of or containing the term "Betano" includes the European Union Trademark Registration No. 014893671 for the word mark BETANO registered since March 23, 2016, for various goods and services related to gaming and gambling.

The Complainant's primary portal for conducting its betting business is located at "www.betano.com" with the corresponding domain name <betano.com> being registered since June 10, 2013.

One of the countries where the Complainant has substantial business activities is Bulgaria through its local site at "www.betano.bg", which according to an April 7, 2022 article of the daily news website FAD ranked as among the leading Bulgarian gambling sites. <sup>1</sup> The corresponding domain name <betano.bg> was registered on October 1, 2020.

The disputed domain name was registered on November 14, 2023.

According to the Complainant, "until January 23, 2024, the disputed domain name displayed a page that presented itself under the name 'betano', replicated the Complainant's trademark-protected logo and closely mimicked the look and feel of the Complainant's corporate page" and "on January 19, 2024, the content of the disputed domain name was blocked following a cease-and-desist action taken by the Complainant with the Respondent's internet service provider."

Currently, the disputed domain name resolves to no active 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 name.

Notably, the Complainant contends that:

- the disputed domain name, which fully incorporates its BETANO trademark is confusingly similar to it because the addition of a hyphen and the term "Bulgaria" to the trademark in the disputed domain name is not sufficient to distinguish the disputed domain name from the trademark;

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<sup>1</sup>Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. WIPO Overview of WIPO Panels Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8.

- the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;

- the fact that the disputed domain name displayed a page simulating the Complainant's mark and business activity before it was blocked following a cease-and-desist action taken by the Complainant with the Respondent's Internet service provider is evidence of bad faith registration and use.

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

## **B. Respondent**

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

## **6. Discussion and Findings**

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**

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.

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 BETANO mark is reproduced within the disputed domain name. The addition of a hyphen and the term "Bulgaria" to the mark in the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy.

Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.7 and 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.

In its Complaint, the Complainant alleges that the Respondent registered the disputed domain name for purposes of impersonating the Complainant and that the impersonating conduct ceased only after the disputed domain name was blocked upon a cease-and-desist action taken by the Complainant. However, these allegations or statements of the Complainant are not supported by any evidence.

It is well-established that “panels are generally not prepared [...] to accept merely conclusory or wholly unsupported allegations of illegal activity, [...] even when the respondent is in default.” [WIPO Overview 3.0](#), section 2.13.2. The Complainant should have provided evidence as to the alleged impersonating activity of the Respondent, not unsupported allegations or conclusory statements. Otherwise, “if mere allegations that a respondent uses a domain name to impersonate a complainant [...] sufficed, then anyone could provide those allegations in a complaint, reducing the UDRP proceeding to whether a complainant satisfies the first element” (see *Beam Suntory Inc. v. Name Redacted*, WIPO Case No. [D2018-2861](#)).

However, despite the Complainant not meeting the applicable standard of proof regarding its impersonation allegations as required pursuant to section 4.2 of the [WIPO Overview 3.0](#), the Panel still finds that the facts and the circumstance of the case indicate that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Complainant has established that it has not authorized, licensed, or allowed the Respondent or any third party to use its trademarks through the disputed domain name or in any other way that would confer validity or legitimacy upon such usage. The Respondent chose not to respond to the Complaint and come forward with any evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Furthermore, the Panel finds that the composition of the disputed domain name carries a risk of implied affiliation with the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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.

In the present case, the Panel notes that the disputed domain name reproduces the Complainant’s BETANO mark. A basic Internet search for BETANO returns solely the Complainant and its businesses. The registration of the disputed domain name occurred years after the Complainant’s registration and use of the BETANO trademark.

These facts and circumstances, coupled with the Respondent’s addition of the term “Bulgaria” (an explicit reference to the territory where the Complainant is considered a market leader) to the mark in the disputed domain name, convince the Panel that the Respondent had actual knowledge of the Complainant’s business and trademark at the time of registration of the disputed domain name and obtained the disputed domain name in order to somehow profit from or exploit the Complainant’s BETANO trademark.

As mentioned above the disputed domain name does not resolve to any active website. However, this does not prevent a finding of bad faith when considering the totality of the circumstances. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's trademark, the composition of the disputed domain name as mentioned above, the Respondent's failure to submit a response, and that any good faith use to which the inherently misleading disputed domain name may be put appears to be implausible. The Panel finds that in these circumstances the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <betano-bulgaria.com> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: March 29, 2024