

ADMINISTRATIVE PANEL DECISION

Bailamia Investments Ltd v. Kevin Evans

Case No. D2024-1202

1. The Parties

The Complainant is Bailamia Investments Ltd, Cyprus, represented by Mykola Rekhlytskyi, Cyprus.

The Respondent is Kevin Evans, United Kingdom.¹

2. The Domain Name and Registrar

The disputed domain name <jugabet1.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 March 20, 2024. On March 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 20, 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 (Privacy service provided by Withheld for Privacy ehf / Unknown, shall be amended after respective information retrieved from the Registrar) and contact information in the Complaint. The Center sent an email communication to the Complainant on March 21, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

The Center verified that 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”).

¹The Panel notes that the Complaint identifies the Respondent as, “Unknown, shall be amended after respective information retrieved from the Registrar”. However, the Complaint was not amended following the Registrar’s disclosure of “Kevin Evans”. In view of the Complaint’s identification of the Respondent, namely that it “shall be amended”, and noting the Rules definition of the Respondent, the Panel will treat the Respondent as “Kevin Evans” for purposes of this Decision.

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 28, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 30, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on June 7, 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 the owner of at least the following trademark registration (Annex 6 to the Complaint):

- International trademark registration No. 1760275 for the word and device mark JUGABET, registered on August 9, 2023, in class 41.

It appears that the only licensed party to use the Complainant's trademark is Castianes B.V., owner of the domain name <jugabet.cl> and operator of website available at that domain name that is directed to the Chilean market for providing online gambling and betting services.

The disputed domain name was registered on November 7, 2023, and presently resolves to an online gambling platform targeting the Chilean market and reproducing the Complainant's trademark and logo.

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 extremely succinct Complaint merely contends that the disputed domain name reproduces the Complainant's "famous or widely-known" JUGABET trademark in its entirety with the addition of the number "1" thus being confusingly similar therewith; and, as to the lack of rights or legitimate interests, the Complainant states that it is unaware of any rights or legitimate interests which might have vested in the Respondent to use the disputed domain name. Lastly, the Complainant contends that the disputed domain name is being primarily used for soliciting the potential customers of the Complainant (and its licensees) in the field of providing online gambling/betting services, also redirecting, at times, Internet users to Complainant's competitors websites, given that the website available at the disputed domain name reproduces the Complainant's trademark and logo, also mimicking the Complainant's authorized licensee website available at the domain name <jugabet.cl>, thus characterizing the Respondent's intent to attract for commercial gain Internet users to the Respondent's website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, affiliation, and endorsement of the Respondent's website.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (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.

The Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

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 mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of a term (here, "1") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark 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 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.

In addition to that, the Respondent's choice to adopt a similar look and feel to the Complainant's licensee's official website further corroborates a finding of lack of rights or legitimate interests (panels have held that the use of a domain name for illegal activity such as 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 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.

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.

The registration and use of the disputed domain name in bad faith can be found in the present case in view of the following circumstances:

- (i) the Respondent's choice to adopt a similar look and feel to the Complainant's licensee's official website;
- (ii) the lack of Respondent's reply to the Complaint;
- (iii) the Respondent's choice to retain a privacy protection service so as to conceal its true identity; and
- (iv) the indication of what appears to be false or incomplete contact details, not having the Center been able to deliver the Written notice to the address indicated by the Respondent.

Based on the available record, the Panel finds that the Respondent has intentionally attempted 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 marks as to the source, sponsorship, affiliation, or endorsement of the website.

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 <jugabet1.com> be transferred to the Complainant.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: June 13, 2024