

ADMINISTRATIVE PANEL DECISION

978 Tech N. V. v. PHAM NGOC TRINH DAU, bet 789 and TRAN KIM HOA
Case No. D2024-1667

1. The Parties

The Complainant is 978 Tech N. V., Curacao, Netherlands (Kingdom of the), represented by Justec Legal Advisory Services LLC, United States of America (“United States”).

The Respondents are PHAM NGOC TRINH DAU, Viet Nam, bet 789, Viet Nam, and TRAN KIM HOA, Viet Nam.

2. The Domain Names and Registrars

The disputed domain names <8xbet.garden> and <8xbetz.tips> are registered with Wild West Domains, LLC. The disputed domain names <8xbetz.me> and <8xbetz.vip> are registered with GoDaddy.com, LLC (the “Registrars”). In this Decision each disputed domain name is referred to as a Disputed Domain Name and collectively they are referred to as the Disputed Domain Names.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) in respect of the Disputed Domain Names <8xbetz.tips>, <8xbetz.me> and <8xbetz.vip> on April 15, 2024. On April 22, 2024, the Center transmitted by email to the Registrars a request for registrar verification in connection with the above Disputed Domain Names. On April 22, 2024 and April 23, 2024, 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 Respondent (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on April 29, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars, requesting the Complainant to either file separate complaint(s) for the Disputed Domain Names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. On April 29, 2024, the Respondent TRAN KIM HOA sent an informal email communication to the Center. The Complainant filed an amended Complaint on May 4, 2024 in which it added the Disputed Domain Name <8xbet.garden>. On May 10, 2024, the Registrar Wild West Domains, LLC confirmed that the Respondent TRAN KIM HOA is the registrant of the Disputed Domain Name <8xbet.garden>. On May 20, 2024, the Complainant filed an amendment to the Complaint.

The Center verified that the Complaint together with the amended Complaint and amendment to 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondents of the Complaint, and the proceedings commenced on May 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 10, 2024. On June 12, 2024, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Nick J. Gardner as the sole panelist in this matter on June 24, 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 an online gambling site website (the “Complainant’s Website”) linked to the domain name <8xbet.com>. The Complainant has applied for various trademarks associated with the term “8xbet” – these applications are pending.

The Disputed Domain Names were registered on the following dates:

<8xbet.garden> October 4, 2023,
<8xbetz.tips> January 30, 2024,
<8xbetz.me> March 31, 2024,
<8xbetz.vip> March 15, 2024.

The filed evidence establishes that each of the Disputed Domain Names <8xbet.garden>, <8xbetz.tips> and <8xbetz.me> has resolved to a differing online gambling website in which the text is written in Vietnamese. These websites (the “Respondents’ Websites”) contain amongst other things images of Manchester City footballers and display prominently the term “8XBET” in the same stylised logo form that the Complainant uses. The Complainant has not provided evidence of the use of the website at the Disputed Domain Name <8xbetz.vip>, and the Panel notes that at the date of this Decision, this website is inactive.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it is appropriate for the Complaint to be filed against multiple Respondents. The Complainant’s reasoning in this regard is discussed below.

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Names.

It says that in addition to its pending applications for registered trademarks it has unregistered rights in the term “8XBET”. The Complainant submits that it started its business under the 8XBET trademark in January 2022 and has since then become the largest betting website in Asia and one of the leading online gambling websites in the world. The Complainant points out that it is one of the major sponsors of the Manchester City Football Club which has won the UEFA championship for the 2022/2023 season. According to the Complainant, as a result of its activities the 8XBET trademark has gained widespread recognition among consumers and has become a distinctive sign which consumers associated with the Complainant’s goods and services prior to the Respondents’ registrations of the Disputed Domain Names.

The Complainant submits that each of the Disputed Domain Names is confusingly similar to its 8XBET trademark, because each incorporates the trademark in its entirety.

According to the Complainant, the Respondents have no rights or legitimate interests in respect of the Disputed Domain Names, because the Complainant has never authorized them to use the 8XBET trademark or to register any domain name corresponding to it, and the Respondents are not commonly known under any of the Disputed Domain Names and have no intellectual property rights relating to them. The Complainant points out that the Respondents have not used, nor made preparations to use, the Disputed Domain Names in connection with a bona fide offering of goods or services.

According to the Complainant, the Disputed Domain Names and the Respondents' Websites are designed to create a false association with the Complainant by evoking the Complainant's 8XBET trademark and other intellectual property, thereby capitalizing on the Complainant's reputation and goodwill and the success of the Complainant's business. The Complainant notes that the Respondents' Websites purport to offer the same gambling services as those offered by the Complainant and attempt to deliberately mislead users into believing that the Respondents' Websites are owned by or affiliated with the Complainant.

The Complainant contends that the Disputed Domain Names were registered and are being used in bad faith. According to the Complainant, the Respondents deliberately attempt to attract, for commercial gain, Internet users to the Respondents' Websites by creating a likelihood of confusion with the Complainant's 8XBET trademark.

B. Respondents

The Respondents did not substantively reply to the Complainant's contentions. An informal email dated April 29, 2024 from the email address associated with the Disputed Domain Name <8xbetz.tips> stated "we have disabled the above domains". At that date the Complaint did not include the Disputed Domain Name <8xbet.garden>.

6. Discussion and Findings

Preliminary Issue – Consolidation of Multiple Respondents

The Complainant has requested consolidation of multiple Respondents and stated that all the Disputed Domain Names belong to the same person or organization or at least are under common control. In this regard see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.11.2, "[w]here a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario". The Panel may consider a range of factors to determine whether consolidation is appropriate, such as examining relevant registrant contact information, and any naming patterns in the disputed domain names, or other evidence of respondent affiliation that indicate common control of the disputed domain names.

The Panel notes that the Disputed Domain Names <8xbet.garden>, <8xbetz.tips> and <8xbetz.me> resolve to websites in Vietnamese and were registered within a six month period. The Respondents of all the Disputed Domain Names were all Vietnamese. The content of the Respondents' Websites seek to suggest an association with Manchester City football club and all use the Complainant's 8XBET trademark and logo prominently. Clearly the Disputed Domain Names <8xbetz.tips> and <8xbet.garden> are under common control as registrar verification identified them as having the same registrant. Further the informal email dated April 29, 2024 appears to confirm that the Disputed Domain Names <8xbetz.me> and <8xbetz.vip> were also controlled by the controller of the Disputed Domain Name <8xbetz.tips> as the email was sent following service of the original Complaint which related only to those three Disputed Domain Names. The

email stated “we have disabled the above domains”. Those three Disputed Domain Names also follow a similar naming pattern, namely adding the letter “z” to the Complainant’s 8XBET trademark.

Given all of these factors the Panel finds that it is more likely than not that the Disputed Domain Names are subject to common control, and that it would be procedurally efficient, fair, and equitable to all Parties to accept the Complainant’s consolidation request. The Panel further notes that the Respondents did not object to the consolidation request. The Panel therefore accepts the Complainant’s consolidation request.

Preliminary Matters – No Substantive Response

The Panel notes that no formal response has been received from the Respondents. However given the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar then the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondents’ failure to file any substantive Response. While the Respondents’ failure to file a substantive Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondents’ default (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Names are identical with or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondents have no rights or legitimate interests in respect of the Disputed Domain Names;
- (iii) the Disputed Domain Names have been registered and are 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.

Based on the available record, the Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. As discussed in section 1.3 of the [WIPO Overview 3.0](#), to establish unregistered or common law trademark rights for purposes of the UDRP, the complainant must show that its mark has become a distinctive identifier which consumers associate with the complainant’s goods and/or services. Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (i) the duration and nature of use of the mark, (ii) the amount of sales under the mark, (iii) the nature and extent of advertising using the mark, (iv) the degree of actual public (e.g., consumer, industry, media) recognition, and (v) consumer surveys. Particularly with regard to brands acquiring relatively rapid recognition due to a significant Internet presence, panels have also been considering factors such as the type and scope of market activities and the nature of the complainant’s goods and/or services. The fact that a respondent is shown to have been targeting the complainant’s mark (e.g., based on the manner in which the related website is used) may support the complainant’s assertion that its mark has achieved significance as a source identifier.

Here, the evidence shows that the Complainant has become one of the major sponsors in Asia of Manchester City Football Club, which has won the UEFA Champions League competition for the 2022/2023 season. This partnership must have generated substantial media presence and attention for the Complainant, which claims to be the largest betting website in Asia and one of the leading online gambling websites in the world. The Disputed Domain Names each include the Complainant’s 8XBET trademark in its

entirety and each of the Respondents' Websites explicitly targets that trademark and the Complainant. The Respondents' Websites prominently display the 8XBET trademark and display it using the same logo that the Complainant uses.

In light of the above and the nature of the Complainant's online gambling business, the Panel accepts that it is more likely than not that this business has indeed grown rapidly since its inception in January 2022 and that the 8XBET trademark, although still unregistered, has become a distinctive identifier that a significant number of consumers associate with the Complainant's gambling services. The fact that the Respondents are targeting the Complainant's trademark, supports the finding that the mark has achieved significance as a source identifier. This is sufficient to find that the Complainant has established unregistered trademark rights in the 8XBET trademark for the purposes of the Policy.

The Panel finds the entirety of the 8XBET trademark is reproduced within each of the Disputed Domain Name. Accordingly, each of the Disputed Domain Names is either identical or confusingly similar to the 8XBET trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel therefore finds that 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.

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.

Having reviewed the record, the Panel finds the Complainant has established a prima facie case that the Respondents lack rights or legitimate interests in each of the Disputed Domain Names.

Panels have held that the use of a domain name for activity involving impersonation/passing off, can never confer rights or legitimate interests on a respondent. See [WIPO Overview 3.0](#), section 2.13.1.

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.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Here, the Panel concludes that the Complainant had accrued unregistered trademark rights prior to the dates the Respondents registered the Disputed Domain Names (see above). As discussed above in this Decision, the Complainant must have received significant media attention following the commencement of its partnership with Manchester City Football Club. The Panel concludes that the Respondents chose to register domain names which included the Complainant's 8XBET trademark to attract gambling customers who will recognise that trademark.

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

(i) circumstances indicating that you have registered or you have acquired the 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 trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

In the present circumstances the Panel agrees with the Complainant that factor (iv) applies as the Respondents were seeking to achieve commercial gain by attracting gambling customers by in effect impersonating the Complainant. The Panel also notes that the Respondents have not filed a substantive Response and hence have not availed themselves of the opportunity to present any case of good faith that they might have. The Panel infers that none exists.

Regarding the Disputed Domain Name <8xbetz.vip>, the Panel finds that the non-use does not prevent a finding of bad faith under the doctrine of passive holding.

Accordingly, the Panel finds that the Disputed Domain Names have each been registered and are being used in bad faith and the third condition of paragraph 4(a) of the Policy has been fulfilled.

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 <8xbet.garden>, <8xbetz.me>, <8xbetz.tips>, and <8xbetz.vip> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: July 8, 2024