

ADMINISTRATIVE PANEL DECISION

978 Tech N. V. v. Privacy Privacy, Dotname Korea Corp.
Case No. D2024-1937

1. The Parties

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

The Respondent is Privacy Privacy, Dotname Korea Corp., Republic of Korea.

2. The Domain Name and Registrar

The disputed domain name <8xbetkk.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on May 8, 2024. On May 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 11, 2024, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

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").

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on May 27, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 17, 2024.

The Center appointed Kaya Köklü as the sole panelist in this matter on June 18, 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 provider of online betting and gambling services with its registered seat in Curaçao, the Netherlands (Kingdom of the). Its services are particularly popular in Asia. The Complainant is further a sponsor of the Manchester City Football Club.

On May 16, 2023, the Complainant has filed for a 8XBET trademarks in the United States no. 97939901 as a word mark, claiming protection for services as protected in class 41.

In the mentioned trademark application, it is indicated that the applied-for trademark has been used in commerce since January 1, 2022.

The Complainant further owns and operates its main website at the domain name <8xbet.com>.

The Respondent is reportedly located in the Republic of Korea, whereas its true identity remains unclear due to seemingly incomplete contact information.

The disputed domain name was registered on April 13, 2024.

The screenshots, as provided by the Complainant, show that the disputed domain name previously resolved to a website purportedly offering gambling and betting services. Internet users were inter alia invited to register and provide personal data. The website associated with the disputed domain name was prominently using the Complainant's 8XBET mark, including its official logo and reference to famous players of the Manchester City Football Club, without any prominent and accurate disclaimer describing the (lack of) relationship between the Parties. By doing so, the website created the look and feel as if it was operated by the Complainant (Annex E to the Complaint).

At the time of the Decision, the disputed domain name does not resolve to an active website anymore.

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.

The Complainant particularly contends that is has acquired trademark rights in 8XBET prior to the registration of the disputed domain name by way of its respective trademark application for 8XBET in 2023 and its prominent use since 2022.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules, the Panel shall decide the Complaint in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

In accordance with paragraph 4(a) of the Policy, the Complainant must prove that each of the three following elements is satisfied:

- (i) the disputed domain name is identical or confusingly similar to a trademark 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.

Paragraph 4(a) of the Policy states that the Complainant bears the burden of proving that all these requirements are fulfilled, even if the Respondent has not substantively replied to the Complainant's contentions. *Stanworth Development Limited v. E Net Marketing Ltd.*, WIPO Case No. [D2007-1228](#).

However, concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") section 4.3.

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

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.

As the Complainant's trademark application for 8XBET is still pending and not granted at the time of the Decision, the Complainant cannot yet rely on registered trademark rights for 8XBET.

However, the Panel finds the Complainant has established unregistered trademark rights in 8XBET for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3. Since the Complainant launched its online gambling and betting services under the mark 8XBET in 2022, its operated website at "www.8xbet.com" has become a popular website, particularly in Asia, even sponsoring the Manchester City Football Club. The fact that the Respondent is shown to have been targeting the Complainant's mark supports the Complainant's assertion that its 8XBET mark has achieved significance as a source identifier.

The entirety of the 8XBET mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the 8XBET mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms or letters, here "kk", may bear on assessment of the second and third elements, the Panel finds the addition of such letters 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.

Quite the opposite, the Panel particularly notes the nature of the disputed domain name, comprising the Complainant's 8XBET mark in its entirety, and the content and design of the associated website, featuring the Complainant's word and figurative 8XBET trademark. In view of the Panel, this clearly indicates the Respondent's awareness of the Complainant and its trademark and its illicit intent to take unfair advantage of it, which does not support a finding of any rights or legitimate interests.

Even more, Panels have held that the use of a domain name for illegal activity, here impersonation and presumably even phishing, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

Consequently, 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.

In the present case, the Panel believes that the disputed domain name was registered in anticipation of the Complainant's trademark rights in 8XBET. [WIPO Overview 3.0](#), section 3.8.2. This is in view of the Panel indicated by the fact that the Respondent registered the disputed domain name after the Complainant's successful launch of its 8XBET services at the website "www.8xbet.com". It is obvious that the Respondent registered the disputed domain name in knowledge of the Complainant's popularity in gambling and betting services. The Panel has no doubt that the Respondent has deliberately chosen the disputed domain name to target and mislead the Internet users who particularly are searching for the Complainant and its services. Consequently, the Panel is convinced that the Respondent has registered the disputed domain name in bad faith.

As regards bad faith use, the Panel notes that the disputed domain name previously resolved to a website which attempted to impersonate the Complainant. In this regard, the overall content and design of the associated website, including the prominent use of the Complainant's 8XBET word and figurative marks, as well as the inherently misleading nature of the disputed domain name, is, in view of the Panel, sufficient evidence that the Respondent has intentionally tried to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant.

In addition, Panels have held that the use of a domain name for illegal activity, here impersonation and presumably phishing, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

The Respondent further appears to have furnished incomplete or false contact details for purposes of registration of the disputed domain name, as the courier was unable to deliver the Center's written communication, which additionally supports a finding of bad faith.

The fact that the disputed domain name currently does not resolve to an active website anymore does not prevent a finding of bad faith.

All in all, the Panel is convinced that the Respondent's registration and use of the disputed domain name constitutes 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 <8xbetkk.com> be transferred to the Complainant.

/Kaya Köklü/

Kaya Köklü

Sole Panelist

Date: July 2, 2024