

## **ADMINISTRATIVE PANEL DECISION**

Netbet Enterprises Ltd v. Anastasia Pidkaliuk  
Case No. D2024-2048

### **1. The Parties**

The Complainant is Netbet Enterprises Ltd, Malta, represented by Cabinet Bouchara, France.

The Respondent is Anastasia Pidkaliuk, Poland.

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

The disputed domain name <netbet-ro.com> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2024. On May 17, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On May 17, 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 (anonymous holder) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 21, 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 May 24, 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 May 29, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 18, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 19, 2024.

The Center appointed Gabriela Kennedy as the sole panellist 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 online casino, gambling, and sport betting services and has established a media presence across the European Union ("EU"), such as Romania, through partnerships and sponsorships.

The Complainant owns the EU Trademark Registration No. 014511208 for , registered on December 14, 2016, in Classes 9, 16, 25, 28, 35, 38, 41, and 42 (the "Complainant's Trademark").

The Complainant's Trademark is fully incorporated in the domain name <netbet.ro>, which resolves to the Complainant's website specially dedicated to Romania (the "Complainant's Website").

The Disputed Domain Name was registered on July 6, 2023. At the time of the filing of the Complaint, the Disputed Domain Name resolved to a webpage impersonating the Complainant and purportedly providing online casino services (the "Respondent's Website"). The mark **NETBET** was shown prominently on the Respondent's Website. At the time of the rendering of this decision, the Disputed Domain Name resolves to a parked site comprising pay-per-click ("PPC") advertising links to goods and services unrelated to the Complainant's industry. The Respondent appears to be an individual residing in Poland based on the information provided by the Registrar.

#### 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 the following:

- (a) the Disputed Domain Name is identical to the Complainant's Trademark as it incorporated the Complainant's Trademark in its entirety, save for the additional country code "ro" to the string "netbet". As the Complainant has a strong presence in Romania with a specific website dedicated to Romania, the Disputed Domain Name leads users to believe that the Respondent's Website is operated by the Complainant or an authorised reseller;
- (b) the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Respondent has not obtained any authorisation from the Complainant to reproduce and imitate the Complainant's Trademark as part of a domain name or otherwise. Imitating the Complainant suggests the Respondent's clear intention to divert consumers to the Disputed Domain Name for commercial gain; and
- (c) The Respondent has used a NETBET mark on the Respondent's Website that is similar to the Complainant's Trademark and affixed a logo that closely resembled the Complainant's brand at the address bar. The Respondent has also offered the same services as the Complainant in a country where the Complainant operates. This shows that the Respondent has attempted to mislead Internet users into believing there is an association between the Respondent and the Complainant.

## B. Respondent

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

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 by the Respondent 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 the Complainant's Trademark 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. To the extent that design (or figurative/stylised) elements would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.10. Furthermore, it is well established that the generic Top-Level Domain ("gTLD"), ".com" in this case, may be disregarded for the purpose of assessing confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.11.1. 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 "ro" to the Complainant's Trademark 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 Complainant's Trademark 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 recognised 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.

The Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

The Respondent would likely not have adopted the Complainant's Trademark if not for the purpose of creating an impression that the Disputed Domain Name is associated with, or originates from, the Complainant, especially when the Disputed Domain Name reproduces the Complainant's Trademark in its entirety and the Respondent has impersonated the Complainant on the Respondent's Website.

The reproduction of the Complainant's Trademark together with a term referring to the country where the Complainant operates also leads to a risk of implied affiliation as the Disputed Domain Name effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

Whilst the Respondent is using the Disputed Domain Name to host a parked page comprising PPC links, this does not of itself confer rights or legitimate interests arising from a "bona fide offering of goods or services" or from "legitimate noncommercial or fair use" of the Disputed Domain Name (see *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#)).

The Panel agrees with the Complainant that there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has become commonly known by the Disputed Domain Name. There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name, is in connection with a bona fide offering of goods or services or be regarded as legitimate noncommercial or fair use. Rather the Disputed Domain Name previously resolved to a website using a virtually identical sign to the Complainant's Trademark and purportedly offering the same services as those of the Complainant.

Panels have held that the use of a domain name for illegal activity, such as claimed impersonation or passing off by the Respondent as the Complainant, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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 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 finds that it is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that it reproduces the Complainant's prior registered Trademark together with a term referring to the country where the Complainant operates, and impersonated the Complainant on the Respondent's Website including the use of a virtually identical sign to the Complainant's Trademark. As discussed above, the Respondent lacks any rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc. v. Ashley Khong*, WIPO Case No. [D2005-0740](#)). Further, the Respondent failed to respond to the Complainant's contentions and has provided no evidence of its actual or contemplated good faith use of the Disputed Domain Name.

Panels have held that the use of a domain name for illegal activity, such as impersonation or passing off by the Respondent as the Complainant, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds 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 <netbet-ro.com> be transferred to the Complainant.

*/Gabriela Kennedy/*

**Gabriela Kennedy**

Sole Panelist

Date: July 8, 2024