

ADMINISTRATIVE PANEL DECISION

Navasard Limited v. Oleg Shtafienko

Case No. D2024-2391

1. The Parties

The Complainant is Navasard Limited, Cyprus, internally represented.

The Respondent is Oleg Shtafienko, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <1xbet.box> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 12, 2024. On June 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 13, 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, PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 20, 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 June 28, 2024.

The Center verified that the Complaint 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 July 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. The Reseller for the disputed domain name sent an email communication to the Center on June 13, 2024. The Respondent did not submit any formal response. Accordingly, the Center notified Commencement of Panel Appointment Process on July 22, 2024.

The Center appointed Marilena Comanescu as the sole panelist in this matter on August 5, 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, registered on March 9, 2015, in Cyprus, is conducting online sports betting activities on the territory of eastern Europe.

The Complainant owns trademarks for 1XBET, such as the following:

- the European Union trademark registration number 013914254 for 1XBET (figurative), filed on April 7, 2015, registered on July 27, 2015, covering services in International classes 35, 41, and 42; and
- the European Union trademark registration number 014227681 for 1XBET (word), filed on June 8, 2015, registered on September 21, 2015, covering services in International classes 35, 41, and 42.

The Complainant's trademarks are registered with the Trademark Clearinghouse.

The disputed domain name was registered on April 26, 2024, and, at the time of filing of the Complaint, according to the Complaint, it was not actively used.

When the Panel visited the website under the disputed domain name, it was used to resolve to a website promoting blockchain-based technology, such as cryptocurrencies and Non Fungible Tokens (NFTs).

On May 15, 2024, the Complainant contacted the Registrar to requested the transfer of the disputed domain name. No response was received.

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 1XBET is one of the most recognized online sports betting brand on the territory of eastern Europe; the disputed domain name is identical to the alpha-string composition of its trademark; the Respondent has no rights or legitimate interests in the disputed domain name; the Respondent is not an affiliated company or licensee of the Complainant; the Respondent has registered and is using the disputed domain name in bad faith, the apparent lack of so called use (e.g., to resolve to a website) of a domain name or without any active attempt to sell or to contact the trademark holder (passive holding), does not, as such, prevent a finding of bad faith.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- (i) the disputed 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 the disputed domain name; and
- (iii) the disputed 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 mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

The Panel notes that the composition of the disputed domain name, which reproduces the Complainant's mark exactly, carries a high risk of implied affiliation. UDRP panels have largely held that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. [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 was registered in bad faith, with knowledge of the Complainant and its trademark particularly because the disputed domain name reproduces exactly the Complainant's trademark, which predates the registration of the disputed domain name by about nine years.

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.

At the time of filing the Complaint, according to the Complaint, the disputed domain name was not actively used.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the composition of the disputed domain name; the Respondent's failure to respond to the present proceedings; and provision of false or inaccurate contact details in the WhoIs (this being also a breach of the registration agreement), as the hard copy of the Complaint couldn't be forwarded to the Respondent, and finds that, in the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

Further, when the Panel visited the website under the disputed domain name, the disputed domain name resolved to a page promoting various goods and services.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [the respondent's] website or location or of a product or service on [the respondent's] website or location" is evidence of registration and use in bad faith.

Given that the disputed domain name reproduces the Complainant's trademark exactly, the website operated under the disputed domain name promotes various services and does not provide reliable information about the entity operating the website under the disputed domain name, together with the other elements in this case such as the provision of false contact details and lack of any response, indeed in this Panel's view, the Respondent has intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated with or related to the Complainant, for the Respondent's commercial gain.

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 <1xbet.box> be transferred to the Complainant.

/Marilena Comanescu /

Marilena Comanescu

Sole Panelist

Date: August 19, 2024