

## **ADMINISTRATIVE PANEL DECISION**

Grand Complications N.V. v. swee moh tan, jinlang xiong, Swee Hen Tan,  
Lian yan Khir

Case No. D2024-2460

### **1. The Parties**

The Complainant is Grand Complications N.V., Cyprus, represented by SafeNames Ltd., United Kingdom.

The Respondents are swee moh tan, Malaysia, jinlang xiong, China, Swee Hen Tan, United States of America, and Lian yan Khir, Malaysia.

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

The disputed domain names <gembetasia.com>, <gembetpro.com>, <gembetsgd.com>, <gembetsgd1.com>, <gembetsgd2.com>, <gembetsgd3.com>, <gembetvip.com>, <gembet1.com>, <gembet2.com>, <vipgembet.com>, and <virgembet.com> (the “Domain Names”) are registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 17, 2024. On June 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On June 18, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the 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 June 19, 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 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 Respondents of the Complaint, and the proceedings commenced on June 28, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 18, 2024. The Respondents did not submit a formal response. Accordingly, the Center notified the Respondents' default on July 24, 2024.

On July 24, 2024, one of the Respondents wrote back in response to the Notification of Respondent Default in two separate emails as follows:

"I only see one domain name in my account. I have never used it. What does "violation" mean? Please explain it in detail."

"Did you contact the wrong person? Please check carefully before contacting me."

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on August 16, 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 within the Southeast Asian market as a provider of online gambling services under the GEMBET brand. The Complainant founded the GEMBET brand in 2016. Currently, the Complainant's offerings under this brand predominantly pertain to online slots, live casinos, and sports betting.

In 2021, the Complainant established its online platform facilitating access to its gambling offerings within Southeast Asia at its official domain name <gem.bet>. According to the Complainant, its online platform received an average of more than 196,000 visits per month between February and April 2024, and over 1.5 million visits between January 2023 and March 2024.

The Complainant claims common law rights in the GEMBET trademark. The Complainant has used the GEMBET brand in connection with its online gambling services since at least 2021.

Moreover, on April 8, 2024, the Complainant filed an application No. D-2024098 with the Bureau for Intellectual Property of Curaçao for the registration of the GEMBET trademark.

Furthermore, the Complainant has registered numerous domain names which comprise the GEMBET brand to represent and secure its online operations, such as <gembet.com>.

The disputed domain name <gembet1.com> was registered on November 22, 2023.

The disputed domain name <gembetsgd.com> was registered on November 21, 2023.

The disputed domain name <gembetsgd1.com> was registered on November 21, 2023.

The disputed domain name <gembetsgd2.com> was registered on November 21, 2023.

The disputed domain name <virgembet.com> was registered on February 15, 2024.

The disputed domain name <gembet2.com> was registered on February 23, 2024.

The disputed domain name <gembetsgd3.com> was registered on February 23, 2024.

The disputed domain name <gembetasia.com> was registered on April 25, 2024.

The disputed domain name <gembetpro.com> was registered on January 29, 2024.

The disputed domain name <gembetvip.com> was registered on January 6, 2024.

The disputed domain name <vipgembet.com> was registered on January 29, 2024.

On May 3, 2024, the Complainant sent to the Respondents a cease-and-desist letter for the Domain Names (excluding the disputed domain name <gembetasia.com>). The Respondents did not reply to this letter.

As of the date of this decision, as well as at the time of submitting the Complaint, the Domain Names have resolved either to online gambling websites or inactive websites. In addition, the disputed domain name <gembet2.com> has resolved to the online gambling website inviting the Internet users to “login” where they are redirected to competitor’s online gambling website.

## **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 Domain Names.

First, the Complainant submits that the Domain Names are confusingly similar to the GEMBET trademark in which the Complainant has unregistered rights.

Second, the Complainant argues that the Respondents have neither rights nor legitimate interests in the Domain Names.

Third, the Complainant contends that the Domain Names were registered and are being used in bad faith.

Finally, the Complainant contends the Domain Names are under common control and requests consolidation of the Domain Names in the present case.

### **B. Respondents**

The Respondents did not reply to the Complainant’s contentions.

On July 24, 2024, one of the Respondents sent an informal communication in response to the Notification of Respondent Default, which is reflected above and further below.

## **6. Discussion and Findings**

### **6.1. Preliminary Matters**

#### **A. Consolidation of Multiple Respondents**

The amended Complaint was filed in relation to nominally different Domain Name registrants. The Complainant alleges that the Domain Name registrants are the same entity or mere alter egos of each other, or under common control.

The Domain Name registrants did not comment on the Complainant’s request for consolidation.

Paragraph 3(c) of the Rules states that a complaint may relate to more than one domain name, provided that the domain names are registered by the same domain name holder.

In addressing the Complainant’s request, the Panel will consider 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. See section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

As regards common control, the Panel notes the following:

First, the Domain Names were registered in close proximity in time, *i.e.*, between November 21, 2023, and April 25, 2024.

Second, all the Domain Names follow similar naming patterns. They consist of the Complainant's GEMBET unregistered trademark, an additional term and the Top-Level Domain ("TLD") ".com".

Third, the contact details for most of the Domain Names are identical.

Fourth, all of the Domain Names are registered with the same Registrar.

Fifth, as of the date of this decision, as well as at the time of submitting the Complaint, the Domain Names have resolved to the websites displaying similar or identical content. They have resolved either to online gambling websites or inactive websites.

Lastly, the Respondents have not denied that the Domain Names are under a common control. While the Respondent's email mentions only "one domain name in my account", no evidence was provided to substantiate this conclusory allegation and no other arguments were presented to rebut the remaining factors suggesting common control over the Domain Names.

As regards fairness and equity, the Panel sees no reason why consolidation of the disputes would be unfair or inequitable to any Party.

Accordingly, the Panel decides to consolidate the disputes regarding the nominally different Domain Name registrants (referred to below as "the Respondent") in a single proceeding.

## **B. The Respondent's email communication**

On July 24, 2024, one of the Respondents wrote back in response to the Notification of Respondent Default in two separate emails as follows:

"I only see one domain name in my account. I have never used it. What does "violation" mean? Please explain it in detail."

"Did you contact the wrong person? Please check carefully before contacting me."

Paragraph 10 of the UDRP Rules vests the panel with the authority to determine the admissibility, relevance, materiality and weight of the evidence, and also to conduct the proceedings with due expedition.

Considering the content of the Respondent's emails dated July 24, 2024, including its reference to the vast assertions presented by the Complainant in the Complaint, the Panel finds that these emails cannot be considered a formal Response or a supplemental filing relevant to this case. As such, the Respondent's emails of July 24, 2024, are disregarded in rendering this decision. For completeness, the Panel notes that had the Respondent's informal emails been considered (as in the consolidation section above), the communications do not present any formal rebuttal nor evidence contesting that of the Complainant's, and thus the admission of such informal communications would have no bearing on the Panel's findings and ultimately on the outcome of this Decision.

## **6.2. Substantive Matters – Three Elements**

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

(i) the Domain Names are 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 Domain Names; and
- (iii) the Domain Name have been registered and are being used in bad faith.

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the [WIPO Overview 3.0](#).

#### **A. Identical or Confusingly Similar**

Under the first element, the Complainant must establish that the Domain Names are identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant relies on its common law rights in the GEMBET trademark. It is constant that the term “trademark or service mark” as used in UDRP paragraph 4(a)(i) encompasses both registered and unregistered trademarks. See section 1.1 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 trademark has become a distinctive identifier which consumers associate with the Complainant’s goods and/or services. See section 1.3 of the [WIPO Overview 3.0](#).

The Panel considers that the Complainant has demonstrated such acquired distinctiveness.

First, the Complainant has used and advertised its online gambling services using the GEMBET trademark since at least 2021 when the Complainant’s online platform was established. Since then, the Complainant’s platform has seen continued expansion. According to the Complainant, the platform received over 142,000 user registrations in 2022 alone.

Second, the Complainant has registered numerous domain names that comprise the GEMBET brand to represent and secure its online operations, such as the domain name <gembet.com>.

Third, the Complainant incorporates the GEMBET brand into its logo further distinguishing its offerings. The Complainant’s logo and brand is widely utilized in marketing materials or the Complainant’s social media, where it actively promotes its products and services online under the GEMBET brand.

Fourth, the Complainant uses the GEMBET brand as an official sports betting partner of Leicester City Football Club in Southeast Asia.

Fifth, the fact that a respondent is shown to have been targeting a 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. See section 1.3 of the [WIPO Overview 3.0](#). Here, most of the Domain Names have been used for the online gambling website featuring the GEMBET brand. Such use confirms that the Complainant’s GEMBET brand has achieved significance as a source identifier.

In sum, the Panel concludes that the Complainant has common law trademark rights in the GEMBET trademark for purposes of the UDRP.

The Domain Names incorporate the Complainant’s GEMBET trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to that trademark (see *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#)).

The addition of other terms or numbers such as “asia”, “pro”, “sgd”, “sgd1”, “sgd2”, “sgd3”, “vip”, “1”, “2”, “vir” in the Domain Names does not prevent a finding of confusing similarity between the Domain Names and the Complainant’s GEMBET trademark. Panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See section 1.8 of the [WIPO Overview 3.0](#).

The TLD “.com” in the Domain Names is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Names are confusingly similar to the Complainant’s GEMBET trademark. Thus, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Under the second requirement, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Names.

The respondent may establish a right or legitimate interest in the domain name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made preparations to use the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services prior to the dispute; or
- (ii) that it is commonly known by the domain name, even if it has not acquired any trademark rights; or
- (iii) that it is making a legitimate, noncommercial, or fair use of the domain name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Based on the records, the Panel finds that the Complainant has established a prima facie case that the Respondent does not have any rights or legitimated interests in the Domain Names, and the burden of production of evidence shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#). Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence on record that the Complainant’s GEMBET unregistered trademark predates the Respondent’s registration of the Domain Names. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use its trademark or to register the Domain Names incorporating the trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Names.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Names in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Names. On the contrary, as of the date of this decision, as well as at the time of submitting the Complaint, the Domain Names have resolved either to the inactive websites or online gambling websites featuring the Complainant’s GEMBET trademark with no disclaimer as to Respondent’s lack of relationship or affiliation with the Complainant. Such use of the Domain Names in this case does not confer rights or legitimate interests on the Respondent.

In addition, as of the date of this decision, as well as at the time of submitting the Complaint, the disputed domain name <gembet2.com> has resolved to the online gambling website inviting the Internet users to “login” where they are redirected to a competitor’s online gambling website. Such use of the disputed domain name <gembet2.com> reinforces the Panel’s finding that the Respondent has no rights or legitimate interests in this disputed domain name.

In sum, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Names. Thus, there is no evidence in the case file that refutes the Complainant's prima facie case. The Panel concludes that the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

Under the third element, the Complainant must prove that the Domain Names have been registered and are being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct; or
- (iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or
- (iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's unregistered rights in the GEMBET trademark predate the registration of the Domain Names. The Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration. This finding is supported by the content of the most of the corresponding websites on the Domain Names which impersonate the Complainant. Moreover, it has been proven to the Panel's satisfaction that the Complainant's GEMBET trademark is well known and unique to the Complainant. Thus, the Respondent could not ignore the reputation of services under this trademark. In sum, the Respondent in all likelihood registered the Domain Names with the expectation of taking advantage of the reputation of the Complainant's GEMBET trademark.

Furthermore, the Respondent shows a pattern of cybersquatting, as it registered 11 Domain Names that include the Complainant's GEMBET trademark.

Next, the Domain Names have been used by the Respondent in bad faith. As noted above, as of the date of this Decision, as well as at the time of submitting the Complaint, most of the Domain Names have resolved to the online gambling websites. By reproducing the GEMBET trademark in the Domain Names, as well as on the corresponding websites, with no disclaimer as to Respondent's lack of relationship with the Complainant, the Respondent suggests at least the association with the Complainant. There is thus little doubt that the Respondents intended to earn profit from the confusion created with Internet users. In consequence, the Panel finds that the Respondent registered and used the Domain Names deliberately in order to take advantage of the Complainant's reputation and to give credibility to their operations.

Moreover, as of the date of this Decision, as well as at the time of submitting the Complaint, some of the Domain Names have not resolved to any active websites. Considering the overall circumstances of this case, the Panel finds that the Respondent's passive holding of these Domain Names does not prevent a finding of bad faith. As numerous UDRP panels have held, passive holding, under the totality of circumstances of the case, would not prevent a finding of bad faith under the Policy. See section 3.3 of the [WIPO Overview 3.0](#). Here, given the well-known nature of the Complainant's GEMBET trademark, the failure of the Respondent to submit a formal response, and the use to which the remaining Domain Names has been put (namely, to impersonate or otherwise capitalize on the Complainant's trademark), the Panel agrees with the above.

Furthermore, as evidenced by the Complainant, some of the Domain Names have been configured with MX records to enable sending and receiving emails from the Domain Names. In the circumstances of this case, there appear to be no conceivable benefit to the Respondent to be gained by registration and use of the Domain Names in this way other than through bad faith activity such as phishing (see *W.W. Grainger, Inc. v. WhoisGuard Protected, WhoisGuard, Inc. / Daniel Thomas*, WIPO Case No. [D2020-1740](#)).

Finally, the lack of the response to the Complainant's cease-and-desist letter sent to the Respondent on May 3, 2024, further supports a finding of bad faith.

For the reasons discussed above, the Panel finds that the third element of the Policy has been established.

## 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 Domain Names <gembetasia.com>, <gembetpro.com>, <gembetsgd.com>, <gembetsgd1.com>, <gembetsgd2.com>, <gembetsgd3.com>, <gembetvip.com>, <gembet1.com>, <gembet2.com>, <vipgembet.com>, <virgembet.com> be transferred to the Complainant.

*/Piotr Nowaczyk/*

**Piotr Nowaczyk**

Sole Panelist

Date: August 30, 2024