

ADMINISTRATIVE PANEL DECISION

Kaizen Gaming International Limited v. Mehmet Sahin
Case No. D2024-2502

1. The Parties

The Complainant is Kaizen Gaming International Limited, Malta, represented by Ubilibet, Spain.

The Respondent is Mehmet Sahin, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <betano.news> (the “Domain Name”) is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 19, 2024. On June 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On July 19, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 24, 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 July 1, 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 July 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 22, 2024. The Respondent sent email communications to the Center on July 1, 8, 12, 17, and 23, 2024. On July 23, 2024, the Center sent an email to the Respondent attaching a copy of the Notification of Complaint and Commencement of Administrative Proceeding email sent to the parties on July 2, 2024, including a copy of the Complaint. The Center’s email also noted that the Response due date had expired on July 22, 2024.

The Center appointed Ian Lowe as the sole panelist in this matter on July 25, 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.

On July 24, 2024, the Respondent sent a further email to the Center stating that it had only now received a copy of the Complaint, late, and setting out what it described as its "second defense".

4. Factual Background

The Complainant is a company within the Kaizen Gaming group of companies based in Malta. It was established in 2012 and, operating under the BETANO mark, has expanded its business presence to 12 countries across Europe and America. It offers a range of gaming options, including sports betting, online casino, and live betting. The Complainant states that according to its corporate website, in 2022, its platforms hosted more than 220 million transactions with over 7 million active users.

As proof of its notoriety, the Complainant relies on its sponsorship of a number of Olympic athletes and football clubs and on a number of international awards and recognitions from the gaming and betting industry.

The Complainant is the proprietor of many registered trademarks for its BETANO mark, covering over 35 countries worldwide, including European Union trademark number 014893671 registered on March 23, 2016, International trademark number 1678581 registered on June 10, 2022 designating countries in South America, and International trademark number 1797844 registered on April 24, 2024 designating countries including the United States of America.

The Complainant operates a website at "www.betano.com", the home page of which displays a number of links listed by language, each of which appears to resolve to a country specific website offering its gaming products and services.

The Domain Name was registered on October 25, 2023. Using a United Kingdom-based browser, it currently resolves to a parking page hosted by the Registrar offering the Domain Name for sale at a headline price of GBP 15,774.90. The text of the page states that the price is USD 20,000. The page includes other text including:

"You can also check this page from time to time to get updates from the city of Betano. Hopefully future owners of <BETANO.NEWS> would create a better site about city of Betano in East Timor. ...

"Betano is a village and suco in the southwest of Manufahi District, East Timor. In 2004, the suco had 4,577 inhabitants. ...

"EAST TIMOR-LESTE SOUTH COAST BEACH, The beach of Betano on the south coast in East Timor on the two separate island of Timor in Asia., The beach of Betano on the south coast in East Timor on the two separate island of Timor in Asia.

"The word BETANO has an acient and intrinsic meaning by itself but you can invent other meanings like Be Tano Beta No Bet An O For some reason BETANO is an extremely popular keyword registered in 434 extensions.

"BETANO is a great place with its nature and beaches, just like Maldives. So maybe one can say, it is an underestimated location. With good marketing (by using <Betano.News>) it can be turned into a hot touristic destination. Betano has less known time-space portals which connects the Earth into other worlds and dimensions. You can jump form one reality into another using such stargates."

It also includes links to other websites giving information about the suco (the East Timor term for village) of Betano.

The screenshots of the webpage at the Domain Name annexed to the Complaint are dated May 27, 2024 and June 12, 2024, and show an identical page to that described above, save that the headline prices appeared as over EUR 18,000.

Little is known of the Respondent. It has an address in Türkiye and appears to have been the unsuccessful Respondent in two earlier cases under the UDRP, namely *International Business Machines Corporation (IBM) v. mehmet sahin*, WIPO Case No. [D2023-2238](#) and *Travellers Exchange Corporation Limited v. mehmet sahin and Ali Sahin*, WIPO Case No. [D2023-0947](#). In both those cases, the Respondent sent a number of informal emails to the Center.

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 Name.

B. Respondent

A summary of the Respondent's contentions is as follows;¹

- a) As of July 8, 2024, it did not know who the Complainant was, "but it can be <betano.com>";
- b) "Betano" is a short word which has multiple generic meanings;
- c) It registered the Domain Name because it saw the development and/or sale potential in it. It is listed for sale and it was developed with a small amount of info;
- d) In addition to its generic meanings, it could have tons of potential uses, such as short for 3 words starting with "be" "ta" "no";
- e) It didn't know any company named "Betano", but heard of <betano.com> later;
- f) Although the Complainant says that it has a trademark and is 12 years old, it is difficult for the Respondent to know about such a site because betting is illegal in Türkiye (except for a few state sponsored ones);
- g) According to Internet reviews, the Complainant's website is hated by a majority of its users and the Respondent is trying to protect the Complainant's customers from <betano.com>;
- h) It buys and sells domain names but makes more money from developing them than selling them. If it sees value in a domain name including on drop lists, then it will register it.
- i) It registered the Domain Name because "betano" is registered in over 400 extensions;
- j) "Betano" is a generic place name which existed long before the Complainant's business. It is a city in East Timor and there are other meanings;
- k) The website at <betano.news> is a developed site and has real content that has nothing to do with the Complainant's business;

¹ In its email dated July 8, the Respondent set out what it described as its "initial short defense" having been informed by the Registrar that a complaint under the UDRP had been filed. Although the Center sent its email of July 2, 2024, with a copy of the Complaint to all the Parties including to the Respondent at the email address from which the Respondent has sent all its emails, the Respondent has claimed in a number of emails that it failed to receive a copy of the Complaint until the Center's email of July 23, after the expiry of the Response due date. Although it appears unlikely that the Respondent did not receive the email of July 2, 2024, the Panel is prepared to accept the Respondent's "initial defence" in its email of July 8, 2024, and its "late" (and second) defense" set out in its email of July 24, 2024, as together amounting to the Response. The Respondent's various other emails, including others sent after the Response due date, seek to expand on or repeat the Respondent's arguments. The Panel is not prepared formally to accept such unsolicited supplemental filings, which are not admissible under the Rules, but has read them and confirms that none of them would have affected the outcome of this case had they formed part of the Response.

- l) The “.news” Top-Level Domain works well with place names and the Respondent has other “.news” domain name registrations;
- m) The Respondent listed the Domain Name for sale because there was a buyer, and it wasn’t sure how much the Domain Name would be worth.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the 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 respect of the Domain Name; and
- (iii) the 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.

Both by virtue of its trademark registrations and as a result of the goodwill and reputation acquired through use by the Complainant of its BETANO trademark (the “Mark”) over a number of years, the Panel is satisfied that the Complainant has rights in the Mark.

Ignoring the generic Top-Level Domain “.news”, the Domain Name comprises the entirety of the Mark. Accordingly, the Panel finds that the Domain Name is identical to a mark in which the Complainant has rights.

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. Accordingly, 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 argues that its business of buying and selling domain names is legitimate and that it has every right to trade in a “betano” domain name. It asserts both that “betano” is a generic word and that it can properly be taken to refer to what it describes variously as a city or village in East Timor. However, the Respondent does not adduce any evidence that “betano” is a generic term or what such a term might realistically refer to. It appears that Betano is a village in East Timor with a beach and a population of around 4,500 inhabitants. The Respondent claims to have developed the website at the Domain Name to provide information and news about Betano.

The reality, however, is that the holding page of the Registrar offering the Domain Name for sale has been populated with a small amount of text including typos and grammatical errors taken from the results of Internet searches relating to the East Timor village. The Panel considers that this cannot amount either to a bona fide offering of goods or services or to legitimate noncommercial fair use of the Domain Name. The Domain Name is being offered for sale in circumstances where the record shows that its value is most likely to derive from its association with the Complainant's websites. In the Panel's view, the inclusion of the content relating to Betano in East Timor was no more than an attempt after the event to add a veneer of legitimacy to the registration of the Domain Name and is not such as to give rise to rights or legitimate interests in respect of the Domain Name.

Having reviewed the available evidence, the Panel finds that the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with persuasive evidence demonstrating rights or legitimate interests in the 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 notes that the Respondent contends that it would be difficult for it to know about the Complainant's website at <betano.com>, despite its apparent popularity elsewhere in the world and its carrying on business for some 12 years, because betting is largely prohibited in Türkiye. However, the Panel is in little doubt that even if access to the <betano.com> website might have been blocked to Internet users in Türkiye, an Internet search for "betano" would disclose numerous results relating to the Complainant's business and its websites. As a dealer in domain names, claiming that it registered the Domain Name because it saw value in it, it is not credible that the Respondent would have failed to carry out Internet searches for the term comprising the domain name it would be acquiring. The Respondent does not deny that it was able to and/or did carry out such searches. It was clearly able at some point to carry out searches for "betano" that revealed the existence of the village in East Timor.

The Respondent claims that it saw value in the Domain Name as it comprised a generic term, but it has failed to provide any evidence or convincing argument as to its generic meaning. The Respondent also suggests that it had value for a website providing news about Betano in East Timor, but given Betano's undoubted obscurity and size (notably also in relation to the offer for sale of the Domain Name), the Panel discounts any such argument.

The Panel is satisfied that the source of value of the Domain Name was because it comprised the entirety of the Complainant's Mark. The Panel considers on balance that the Respondent did have the Complainant and its rights in the Mark in mind when it registered the Domain Name. The Respondent's offering the Domain Name for sale at a substantial price, and its admission that it listed the Domain Name for sale with a view to maximizing the price it obtained, supports a finding that it was seeking to profit from the association of the Domain Name with the Complainant's Mark. The findings of bad faith registration and use against the Respondent in two earlier UDRP cases involving well-known marks further supports a finding of bad faith registration and use in this case.

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 Domain Name <betano.news> be transferred to the Complainant.

/lan Lowe/

Ian Lowe

Sole Panelist

Date: August 12, 2024