

ADMINISTRATIVE PANEL DECISION

978 Tech N. V. v. Kittikhun, Phirom
Case No. D2024-2618

1. The Parties

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

The Respondent is Kittikhun, Phirom, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <8x-bet.com> is registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 26, 2024. On July 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 5, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on July 8, 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 12, 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 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 6, 2024. The Panel issued Procedural Order No. 1 on August 21, 2024, requesting further information from the Parties. The Complainant requested an extension of time to respond on August 26, 2024, and on August 27, 2024, the Panel granted the Complainant an extension of time until August 30, 2024. The Complainant submitted a response to Procedural Order No. 1 on September 3, 2024.

The Center appointed Jeremy Speres as the sole panelist in this matter on August 8, 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 has, since January 2022, operated a betting website under the 8XBET mark from its domain name <8xbet.com>, primarily targeting users in Asia. The Complainant was previously one of the major sponsors of the Manchester City Football Club. The Complainant's reputation and unregistered rights in its 8XBET mark were recognized in a prior UDRP decision, specifically *978 Tech N. V. v. seo, Senh Sam*, WIPO Case No. [D2023-4092](#).

The Complainant owns a registered trademark for 8XBET since August 27, 2024, in the United States (registration No. 7485266), claiming first use in commerce from January 1, 2022.

The disputed domain name was registered on November 30, 2020, and resolves to a website offering gambling services in Thai script, featuring a prominent white and blue 8XBET logo.

The registration details provided by the Respondent for the disputed domain name indicate the country Türkiye, however, the additional physical address details point to a location in Thailand.

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 the Respondent is deliberately attempting to attract, for commercial gain, users to its website by creating a likelihood of confusion with the Complainant's reputed mark.

B. Respondent

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

6. Discussion and Findings

A. Complainant's Missed Deadline

The Complainant failed to respond to Procedural Order No. 1 by the extended deadline. Despite being informed, in the Panel's Procedural Order No. 1 of August 27, 2024, that panels are empowered, by paragraph 10(c) of the Rules, to grant extensions of time "in exceptional cases", the Complainant made no effort to justify its late response nor to explain why this was an exceptional case.

Nevertheless, given that the Respondent has not responded to either the Complaint or Procedural Order No. 1, and given the Panel's finding on the merits, there would appear to be no prejudice to the Respondent should the Panel accept the Complainant's late filed submission, and the Panel considers it to be in the interests of justice to accept it.

B. 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 Panel finds the Complainant has registered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The addition of the hyphen in the disputed domain name 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.

C. 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.

For the reasons discussed in relation to bad faith below, it is likely that the Respondent acquired the disputed domain name in order to take advantage of confusion with the Complainant’s mark. The Respondent’s acquisition and use of the disputed domain name in these circumstances cannot represent a bona fide offering of goods or services under paragraph 4(c)(i) of the Policy and cannot confer rights or legitimate interests. *Sistema de Ensino Poliedro Vestibulares Ltda., Editora Poliedro Ltda. v. Anonymize, Inc. / STANLEY PACE*, WIPO Case No. [D2022-1981](#).

The Panel finds the second element of the Policy has been established.

D. Registered and Used in Bad Faith

The disputed domain name was registered before the Complainant began trading and before the Complainant could have developed unregistered rights in its mark. However, in response to Procedural Order No. 1 in which this was put to the Complainant, the Complainant produced evidence indicating that the disputed domain name was acquired by the current registrant, the Respondent, after the Complainant first began trading. The Complainant presented historical Whois records showing that at some point between December 21, 2023, and June 24, 2024, the registrant organization in the Whois record changed from “Contact Privacy Inc. Customer 7151571251” to “Phirom”, as it currently remains. Further, there was an earlier registrant organization change between March 4, 2022 and June 11, 2022 from “Contact Privacy Inc. Customer 1248790823” to “Contact Privacy Inc. Customer 7151571251”. The Panel also notes that the Update Date associated with the disputed domain name (which may change in response to a transfer, renewal, or other changes to the Whois details), has changed numerous times between 2022 to present, to dates that are not associated with normal expiry/renewal timelines of the disputed domain name (suggesting potential transfers or at least changes to the Whois details). Lastly, according to the Internet Archive records the disputed domain name did not resolve to an active website until late 2022. From approximately

September 25, 2022, the disputed domain name resolved to a website displaying the Complainant's mark and offering competing gambling services, and from approximately February 8, 2023, the disputed domain name resolved to the present (very similar) website displaying the same mark and gambling services, and featuring a woman wearing a jersey with an "England" patch clutching a football.

In the absence of any Response from the Respondent contradicting this, on balance of probabilities it would appear more likely than not that the registrant of the disputed domain name changed to the Respondent at least between, March 4, 2022 and June 11, 2022, and potentially at a later date between December 21, 2023, and June 24, 2024. Per the [WIPO Overview 3.0](#), section 3.9:

"In cases where the domain name registration is masked by a privacy or proxy service and the complainant credibly alleges that a relevant change in registration has occurred, it would be incumbent on the respondent to provide satisfactory evidence of an unbroken chain of registration [...]"

The date upon which the current registrant acquired the disputed domain name is the relevant date for assessing bad faith. [WIPO Overview 3.0](#), section 3.9.

The change in registrant in this case at minimum occurred after the Complainant began trading under its 8XBET mark, and likely after the Complainant's reputation and unregistered rights had already been recognized in *978 Tech N. V. v. seo, Senh Sam*, WIPO Case No. [D2023-4092](#).

The disputed domain name's website is ostensibly for a business operating in the same or a closely related industry to the Complainant, and the website makes prominent use of blue and white coloring for a "8XBET" logo (without a hyphen), which is very similar to the Complainant's own reputed logo for the identical 8XBET mark, with very similar stylization.

The disputed domain name's website would appear to target users in Thailand, and the Complainant's primary userbase is situated in Asia. Furthermore, the disputed domain name's website features a woman wearing a jersey with an "England" patch clutching a football and would seem to relate partly to gambling relating to football. Given the Complainant's prominence in football through its sponsorship of a major football club in the United Kingdom, this too points to targeting of the Complainant.

In the circumstances, it is likely that the Respondent sought to capitalize on the Complainant's reputation by profiting from confusion with the Complainant and its mark, falling squarely within paragraph 4(b)(iv) of the Policy.

The Panel draws an adverse inference from the Respondent's failure to reply to the Complainant's contentions, where an explanation is certainly called for. [WIPO Overview 3.0](#), section 4.3.

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 <8x-bet.com> be transferred to the Complainant.

/Jeremy Speres/

Jeremy Speres

Sole Panelist

Date: September 11, 2024