

## ADMINISTRATIVE PANEL DECISION

Lottoland Holdings Limited v. 刘晓峰 (Xiaofeng Liu)  
Case No. D2024-3252

### 1. The Parties

The Complainant is Lottoland Holdings Limited, Gibraltar, United Kingdom, represented by Brimondo AB, Sweden.

The Respondent is 刘晓峰 (Xiaofeng Liu), China.

### 2. The Domain Name and Registrar

The disputed domain name <lottoland.bet> is registered with West263 International Limited (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on August 8, 2024. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 9, 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) and contact information in the Complaint. On the same day, the Center sent an email communication to the Complainant 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 in English on August 14, 2024.

On August 9, 2024, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. On August 12, 2024, the Complainant requested that English be the language of the proceeding. The Respondent did not submit any comment on the language of the proceeding.

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 in Chinese and English of the Complaint, and the proceedings commenced on August 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 6, 2024.

The Center appointed Matthew Kennedy as the sole panelist in this matter on September 10, 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 offers online betting services. It holds trademark registrations in multiple jurisdictions, including the following International trademark registrations:

- number 1679409 for LOTTOLAND, registered on March 1, 2022, designating multiple jurisdictions, and specifying goods and services in classes 9, 35, 41, and 42; and
- number 1679559 for LOTTOLAND and device (the "Lottoland logo"), registered on March 1, 2022, designating multiple jurisdictions, and specifying goods and services in classes 9, 35, 41, and 42.

The above trademark registrations remain current. The Complainant has also registered multiple domain names comprising "lottoland" and various Top-Level Domain ("TLD") extensions, including <lottoland.com>, that it uses in connection with a website that displays its Lottoland logo and offers betting services.

The Respondent is an individual based in China.

The disputed domain name was registered on October 23, 2023. According to evidence presented by the Complainant, it formerly resolved to a website in English that displayed the Complainant's Lottoland logo and invited Internet users to sign in or sign up. A page on the website provided information about the Complainant's Lottoland services and offered a tour inside the "official website". At the time of this Decision, the disputed domain name no longer resolves to any active website.

On February 19, 2024, the Complainant sent a cease-and-desist letter to the Registrar to be forwarded to the Respondent.

#### **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 disputed domain name is identical to its LOTTOLAND mark. The Respondent has no rights or legitimate interests in respect of the disputed domain name. The disputed domain name was registered and is being used in bad faith. The Respondent used the disputed domain name to pretend to be the Complainant. The website had a portal from which visitors could click on call-to-action buttons that led to login pages, and it displayed hyperlinks to other websites that provide online betting services. The disputed domain name was also listed for sale on the Registrar's website.

##### **B. Respondent**

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

## 6. Discussion and Findings

### 6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint and amended Complaint were filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Respondent's website was entirely in English, which shows that the Respondent is familiar with that language, whereas having the complaint in a language other than English will incur substantial expenses and time for the Complainant.

The Respondent did not make any submission with respect to the language of the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs. See [WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition \("WIPO Overview 3.0"\)](#), section 4.5.1.

Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English. The Panel would have accepted a Response in Chinese, but none was filed.

### 6.2. Substantive Issues

Paragraph 4(a) of the Policy provides that a complainant must prove each of the following 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 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. See [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of the LOTTOLAND trademark for the purposes of the Policy. See [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the LOTTOLAND mark is reproduced within the disputed domain name. The only additional element is a generic TLD (".bet") which, as a standard requirement of domain name registration, may be disregarded in the assessment of confusing similarity for the purposes of the Policy. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. See [WIPO Overview 3.0](#), sections 1.7 and 1.11.

Therefore, 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. See [WIPO Overview 3.0](#), section 2.1.

In the present case, the disputed domain name, which is identical to the Complainant's LOTTOLAND mark, has resolved to a website that displayed the Complainant's Lottoland logo and invited Internet users to sign in and sign up, ostensibly for betting services. The website provided information about the Complainant's services and offered a tour of the “official website”. All of this gave the impression that the Respondent's website was affiliated with, or endorsed by, the Complainant. However, it is clear from the Complainant's cease-and-desist letter and the Complaint that the Respondent is not authorized or endorsed by, or affiliated with, the Complainant in any way. At the time of this Decision, the disputed domain name is passively held. These circumstances indicate that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services. Given that the Respondent's website invites Internet users to register, ostensibly for betting services, this is not a legitimate noncommercial or fair use of the disputed domain name either.

Further, the Registrar has verified that the Respondent's name is “刘晓峰 (Xiaofeng Liu)”, which does not resemble the disputed domain name. Nothing in the record indicates that the Respondent has been commonly known by the disputed domain name.

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.

Based on the record, 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. The fourth of these circumstances is as follows:

“(iv) by using the [disputed] domain name, [the respondent has] intentionally attempted 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.”

In the present case, the disputed domain name was registered in 2023, after the registration of the Complainant's LOTTOLAND mark. The disputed domain name is identical to that mark, while the generic TLD extension “.bet” refers to the type of services that the Complainant provides. The Respondent has used the disputed domain name in connection with a website that displayed the Complainant's Lottoland logo and

presented the Complainant's betting services. In view of these circumstances, the Panel has reason to find that the Respondent registered the disputed domain name in bad faith.

As regards use, the Respondent has used the disputed domain name in connection with a website that displayed the Complainant's Lottoland logo and invited Internet users to sign in and sign up, ostensibly for betting services. The website provided information about the Complainant's services and offered a tour of the "official website". Given the findings in Section 6.2B above, the Panel finds that these circumstances fall within the terms of paragraph 4(b)(iv) of the Policy.

The Panel notes that the use of the disputed domain name has now changed and that it no longer resolves to an active website. This change in use does not alter the Panel's conclusion; if anything, it may be a further indication of bad faith.

Therefore, 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 <lottoland.bet> be transferred to the Complainant.

*/Matthew Kennedy/*

**Matthew Kennedy**

Sole Panelist

Date: September 20, 2024