

ADMINISTRATIVE PANEL DECISION

Navasard Limited v. Walter Schuster
Case No. D2024-4126

1. The Parties

The Complainant is Navasard Limited, Cyprus, represented internally.

The Respondent is Walter Schuster, Germany.

2. The Domain Name and Registrar

The disputed domain name <1xstream.com> is registered with INWX GmbH & Co. KG (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 8, 2024. On October 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 10, 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 (DomainPrivacyProtect.info) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 15, 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 amendment to the Complaint on October 15, 2024.

On October 15, 2024, the Center informed the parties in German and English, that the language of the registration agreement for the disputed domain name is German. On October 15, 2024, the Complainant requested English to be the language of the proceeding. The Respondent did not submit any comment on the Complainant’s submission.

The Center verified that the Complaint together with the amendment to the 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 October 24, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 13, 2024. The Response was filed with the Center on October 31, 2024.

The Center appointed Andrew D. S. Lothian as the sole panelist in this matter on November 21, 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 is a limited liability company registered in Cyprus under registration number HE341366. Although the Panel was provided with very limited information in the Complaint regarding the Complainant's activities, the Panel notes that the Respondent is engaged in the business of sports betting.

The Complainant owns registered trademarks for the 1XBET mark, namely European Union Registered Trademark Number 14227681 in respect of the word mark 1XBET, registered on September 21, 2015 in Classes 35, 41, and 42. It also owns the European Union Registered Trademark Number 13914254 for a figurative mark consisting of a partially encircled football over which is superimposed the words "1X" where the figure "1" is in white with black outline and the letter "X" is in blue with its rightmost base extending to underline the word "BET", registered on July 27, 2015 in Classes 35, 41, and 42.

The disputed domain name was registered on June 27, 2016. The website associated with the disputed domain name currently redirects to a website hosted at the domain name <1x2stream.de> which appears to provide links to live football matches, with further menu items entitled "Basketball", "Icehockey", and "Other". The html title tag for said website is "Fussball Live Stream kostenlos - Bundesliga in bester Qualitaet auf 1x2stream.de", or, in English, "Football live stream for free - Bundesliga in best quality on 1x2stream.de".

The Respondent refers in the Response to a previous case under the Policy brought by the Complainant against it. The Panel notes that the Complainant made no mention of this in the present Complaint. The case concerned is *Navasard Limited v. Walter Schuster*, WIPO Case No. [D2024-1639](#), which involves the domain name <1xstream.org>. The panel found in that case that <1xstream.org> had been used for a website directing to live streams of football matches, on which the Respondent had used "1x" in the same style and font as the Complainant's logo and figurative trademark. The panel in that case also found that this constituted illegal activity, namely impersonation/passing off. The Respondent did not engage with the administrative proceeding in respect of <1xstream.org>. The panel ordered that <1xstream.org> be transferred to the Complainant. The Respondent acknowledges in the present case that the disputed domain name has been used since 2019 to forward to various domain names including <1xstream.org> and does not deny that the disputed domain name therefore pointed to the said variant of the Complainant's logo and figurative trademark. The logo on the website to which the disputed domain name presently points does not appear to have any features of the Complainant's figurative mark.

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 it is the owner of the 1XBET trademarks, and that the disputed domain name incorporates the "1x" prefix, being a key component of said marks. The Complainant asserts that the Respondent is potentially reselling the disputed domain name at a profit by taking advantage of the

fact that it is confusingly similar to the Complainant's popular sports betting trademark, adding that the Respondent is not making a noncommercial or fair use thereof. The Complainant notes that "passive holding" of the disputed domain name would not, as such, prevent a finding of bad faith.

B. Respondent

The Respondent contends as follows:

The Respondent's name originates from its previously used domain name <xstream.to>. When selecting the disputed domain name, the Respondent added a "1" because <xstream.com> was not available to register. The Respondent ceased using the disputed domain name in 2019 and began to redirect it to other similar domain names, such as <1xstream.de>, <1xstream.net>, and <1xstream.org>. The Respondent bought a logo from FIVERR in 2016. In December 2023, the Respondent was informed that this logo posed a problem, whereupon it was replaced "in a minute". The Respondent was informed by the Registrar that a complaint had been made against <1xstream.org>, which it dismissed as a bad joke, and consequently lost said domain name by not responding. The Respondent believed that it was impossible to lose a domain name by way of such a complaint.

The Respondent states that the disputed domain name redirects to <1x2stream.de>, as the Respondent changed the branding from "1xstream" to "1x2stream" after losing <1xstream.org>, in the hope of avoiding further issues with the Complainant. The Respondent fears that all of its "1xstream" domain names will be challenged in due course. The Respondent states that the disputed domain name holds significant personal value for it "after more than a decade", adding that it is upset by losing <1xstream.org>.

The Respondent states that the first time it saw an advertisement for the Complainant's business, "I dreamed of one day selling my domain to them legally during its similarity [to] "1x"". The Respondent states that the "1x" prefix in a domain "made decades ago" is no reason for a transfer to be ordered of the disputed domain name, "if there is no interest in purchasing my '1xstream' domains, which would be the only really legal way". The Respondent adds that its work on the disputed domain name and others is its life's work, and it seeks financial compensation for decades of costs, in which case it would be prepared to relinquish its "1xstream" domain names.

6. Discussion and Findings

6.1 Preliminary Issue - Language of the Proceeding

The language of the Registration Agreement for the disputed domain name as presented by the Complainant is English. 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. However, the Registrar has confirmed to the Center that the language of the Registration Agreement as being German.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that the Respondent is familiar with the English language due to the use of an English word in the disputed domain name, that the content on the website associated with the disputed domain name is in English, that it would be unfair to burden the Complainant with making a translation, and that the Registrar's website is in English (among other languages).

The Respondent did not make any specific submissions with respect to the language of the proceeding, although it filed a substantive Response in the English language. This suggests to the Panel that the Respondent would in no way be prejudiced by a decision that English be 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.

6.2 Substantive Issues

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 Panel finds the mark is recognizable within the disputed domain name, largely on the basis described in *Navasard Limited v. Walter Schuster, supra*, namely, that the distinctive element "1x" is included in both. While the rest of the domain name and trademark consist of different characters, the Respondent effectively admits in the Response that the disputed domain name was used from 2019 as a forwarding domain to point Internet traffic to, among others, <1xstream.org>. The Respondent does not deny that the website at the latter domain name featured a logo which emulated that of the Complainant, as the panel found in *Navasard Limited v. Walter Schuster, supra*, merely adding (and not evidencing) that it sourced such logo from the FIVERR service. It follows that the content of the website associated with the disputed domain name as expressed prior to December 2023 makes a direct reference to the Complainant's figurative trademark and thus serves to affirm the confusing similarity (see [WIPO Overview 3.0](#), section 1.11 on the topic of the relevance of such content).

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 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.

The essence of the Complainant's case on this topic is that the Respondent may be seeking to sell the disputed domain name at a profit by taking advantage of the fact that it is confusingly similar to the Complainant's popular sports betting trademark, the implication being that such intent could never give rise to rights or legitimate interests under the Policy. The Respondent's case does provide a certain amount of

support for the Complainant's position, insofar as the Respondent makes it clear that it dreamed of selling the disputed domain name and others to the Complainant, albeit "legally". By "legally", the Panel presumes that the Respondent is effectively saying that it registered the disputed domain name without any reference to the Complainant's 1XBET mark and that the repetition of "1x" in the disputed domain name is coincidental.

There are some grounds whereby the Panel might have believed that the Respondent's use of "1x" was a coincidence. The first is that it is reasonably plausible that the Respondent's selection of an "xstream" brand in its original domain name would reference the dictionary word "extreme" in pronunciation, while the contained dictionary word "stream" references the fact that the Respondent collates live streamed football matches. Secondly, it does not seem unreasonable for the Respondent, on its account, to have changed tack when it found that the "xstream" brand was not available in the ".com" domain name space, and thus to have inserted the figure "1" in front of that term to create the disputed domain name. This would amount to a facsimile of the dictionary phrase "one extreme", while still referencing the word "stream" in respect of a livestreamed event. All of this might have been done in the absence of any knowledge of or intent to target the Complainant's 1XBET mark, but for one crucial factor. The Respondent's website (to which the disputed domain name forwarded) used a logo which the panel in *Navasard Limited v. Walter Schuster, supra*, found to be a facsimile of the Complainant's figurative mark, at least insofar as the "1x" element was concerned, which was in the same style and font. The Panel in the present case notes that style and font (as described in the factual background section above) to be distinctive. The Respondent does not deny its adoption of such logo in the present case despite being aware that this was the basis of the decision in that case, and that the disputed domain name here forwarded to the same online location. Instead, the Respondent seeks to explain itself by stating that it bought the logo from FIVERR (which the Panel understands to be a website offering digital services and access to freelance providers such as graphic designers). In other words, the Panel understands the Respondent to be saying that the reference to the Complainant's brand was caused by the third party from whom it bought the logo and was thus accidental and inadvertent.

The fundamental issue that the Panel has with the Respondent's case on this topic is it is entirely based upon assertions. The Respondent does not produce any evidence supporting its assertion that its previous adoption of a logo targeting the Complainant was inadvertent. It does not produce evidence supporting its account of the previous domain names it held and how these were used. Furthermore, the Respondent, being engaged in sporting livestream activities, might reasonably be expected to have known of the Complainant's trademark, which had been registered a year previously in connection with sports betting.

In light of the above analysis, the Panel considers that the offering of goods or services via the disputed domain name could not be considered to be bona fide, given that the disputed domain name was used to forward traffic to a website that previously referenced the Complainant's logo and was therefore benefitting unfairly from the adoption of the term "1x" in the disputed domain name. It appears to the Panel, in the absence of evidence to the contrary, that the disputed domain name and said logo were intended to call to mind the Complainant and its rights. As noted in *Navasard Limited v. Walter Schuster, supra*, the use of a domain name for impersonation/passing off can never confer rights or legitimate interests on a respondent.

The Panel notes that there is no evidence that the Respondent has been commonly known by the disputed domain name, this not being borne out by the name in the Whois record, and in particular, that the references to the Respondent's alleged use of the disputed domain name for "more than a decade" do not make sense for a domain name that was registered by the Respondent in 2016. The forwarding of the disputed domain name to a website collating livestreams of football or other sporting engagements appears to the Panel to be a commercial endeavor, such that the Respondent could not argue that it is making a legitimate noncommercial or fair use of the disputed domain name (nor does it attempt to do so). Importantly, the Respondent's clearly expressed desire to sell the disputed domain name, among others, to the Complainant as a "dream" does not sit comfortably with its suggestion that it has been engaged in a wholly legitimate activity.

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.

A finding that a domain name has been registered and is being used in bad faith typically requires an inference to be drawn that the respondent has registered and is using such domain name to take advantage of its significance as a trademark owned by (usually) the complainant (see: *British Airways Plc v. Softline Studios*, WIPO Case No. [D2023-2188](#)). It follows that the Complainant, on whom the burden of proof lies, must show on the balance of probabilities that the Respondent registered the disputed domain name in the knowledge of and with intent to target the Complainant and/or its rights in the trademark concerned.

In the present case, the Panel notes that the Complainant's submissions on this topic relate to alleged passive holding of the disputed domain name. The disputed domain name is not passively held, in that it forwards to an active website. The Panel does however understand how the Complainant might have confused the notion of passive holding with what the disputed domain name is doing because it is largely a vehicle for onward transmission of Internet traffic towards a website at another domain name. The Panel considers that the Complainant may benefit from making a fuller submission to support its case on both the first and second element assessments should the issue arise again. Indeed, both of the Parties might have benefitted from professional advice and assistance in the drafting of their respective submissions.

Despite the apparent brevity of the Complainant's submissions, the Panel requires to make its assessment on the basis of the entire record before it, and not just the terms of the Complaint and its annexes. In the overall context, it is clear that the disputed domain name has been used in the recent past to forward to a website featuring a logo that has been found to be a facsimile of the Complainant's figurative mark, as far as the "1x" element is concerned. The Panel here adopts the analysis on that topic from the preceding section. The use of the disputed domain name to point to a website concerned with sporting livestreams featuring such a logo (noting that the Complainant itself, and its registered mark, is concerned with sports betting) amounts to an impersonation or passing off, which illegal activity constitutes bad faith in terms of the Policy. [WIPO Overview 3.0](#), section 3.4.

As with the second element analysis, the Panel could have seen a route to a potential finding in favor of the Respondent on this topic, but only if the Respondent had been able to demonstrate with convincing evidence that it acquired the facsimile logo inadvertently from a third party, and thus had no intent to target the Complainant's trademark. This evidence would have had to include, at a minimum, the Respondent's brief for the logo together with any correspondence with the designer. The Respondent was aware of the importance of this matter but chose instead to rely merely upon assertions. Likewise, for its part, the Complainant might have been able to contradict such evidence had it shown by way of its own evidence the strength and reach of its mark at the material time, which might have indicated that a person involved in the collation of sporting livestreams could not reasonably have been unaware of such mark. As matters stand, however, the Panel finds that the presence of the logo on the website associated with the disputed domain name (as determined by the Respondent's submissions in the Response regarding the use of the disputed domain name as a forwarding domain from 2019, and the description of the logo on the associated website in *Navasard Limited v. Walter Schuster, supra*) allows it reasonably to infer that the disputed domain name was registered in the knowledge of the Complainant's rights and with intent to target the same. This points in the direction of a finding of registration and use in bad faith.

Furthermore, the Respondent's clearly expressed desire to sell the disputed domain name and others to the Complainant in its submissions also leads in the circumstances of this particular case to the reasonable inference that this might have been the primary purpose behind its registration of the disputed domain name. This also points in the direction of a finding of registration and use in bad faith, particularly as the Respondent's insistence of having come by the term in the disputed domain name by coincidence is tainted by its past use of a facsimile of the Complainant's logo.

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 <1xstream.com> be transferred to the Complainant.

/Andrew D. S. Lothian/

Andrew D. S. Lothian

Sole Panelist

Date: December 3, 2024