Decision for dispute CAC-UDRP-106443

Case number	CAC-UDRP-106443
Time of filing	2024-04-16 07:45:11
Domain names	xbetmaroc.com

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Navasard Limited

Complainant representative

Organization	Sindelka & Lachmannová advokáti s.r.o.

Respondent

Name	sof yan

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name <xbetmaroc.com>.

IDENTIFICATION OF RIGHTS

The Complainant owns numerous trademark registrations ("1XBET Trademarks") for the mark 1XBET as a word mark and figurative mark in a number of jurisdictions:

- European Union trademark No. 013914254 (word) registered on July 27, 2015;
- European Union figurative trademark 017517327 registered on March 7, 2018; and
- European Union figurative trademark 017517384 registered on March 7, 2018.

The Complainant 1xBET also operates a website under the domain name: <1xbet.com>, which includes the Complainant's 1XBET trademark. 1xBET uses this domain name to resolve to its online betting websites.

FACTUAL BACKGROUND

The Complainant, Navasard Limited, is the owner of the 1XBET trademarks and belongs to the group of companies operating under the brand name 1xBET, which is an online gaming platform with worldwide reach (hereinafter also referred to as "1xBET"). 1xBET was founded in 2007 and the Complainant has existed since 9 March 2015. 1xBet offers sports betting, lottery, bingo, live betting, lottery, etc. 1xBet is licensed by the government of Curacao.

1xBET has become one of the world's leading betting companies and has developed a strong presence and reputation in the global online gambling market, as evidenced by the numerous sponsorship agreements signed with top sports organizations (e.g. FC Barcelona, FC Liverpool).

The disputed domain name <xbetmaroc.com> was registered on April 16, 2023.

PARTIES CONTENTIONS

COMPLAINANT:

• The disputed domain name is identical or confusingly similar to the protected mark

According to the Complainant, the disputed domain name <xbetmaroc.com> contains the dominant part of the Complainant's 1XBET mark along with the addition of a geographic term ''maroc'', which is the French name for Morocco. The Complainant argues that the confusing similarity is supported by the fact that the website associated with the disputed domain name displays the 1XBET trademark and logo in its entirety on multiple occasions, i.e., including the number "1", which is missing from the disputed domain name itself.

Also, the addition of the generic Top-Level Domains (gTLD) ".com" does not add any distinctiveness to the disputed domain name.

Therefore, the Complainant argues that the disputed domain name is confusingly similar to the Complainant's 1XBET trademark within the meaning of Paragraph 4(a)(i) of the Policy.

• Respondent does not have any rights or legitimate interest in the disputed domain name

The Complainant has not licensed or authorized the Respondent to register or use the disputed domain name, nor is the Respondent affiliated to the Complainant in any form. There is no evidence that the Respondent is known by the dispute domain name or owns any corresponding registered trademarks.

The Respondent has not been using, or preparing to use, the disputed domain name in connection with a bona fide offering of goods and services, nor making a legitimate non-commercial or fair use of the disputed domain name.

The structure of the disputed domain name – incorporating in its second level portion the dominant part of the 1XBET Trademark "XBET" and the geographic term "maroc" (for Morocco) reflects the Respondent's intention to create an association, and a subsequent likelihood of confusion, with the Complainant, its 1XBET Trademarks, and its business conducted under the same, in Internet users' mind. By reading the disputed domain name, incorporating the dominant part of the 1XBET Trademark and term referring to the country, Internet users may be falsely led to believe that the disputed domain name is directly connected to, authorized by or endorsed by the Complainant. However, the website associated with the disputed domain name has not been authorized or approved by the Complainant.

According to the Complainant, the content of the website associated with the disputed domain name is intended to imply a direct association with the Complainant and its 1XBET Trademarks. Also the website associated to the disputed domain name mimic the Complainant's official website at "1xbet.com", by the textual elements, colour scheme (different shades of blue, green elements) and the 1XBET Trademarks displayed therein.

The disputed domain name resolves, as of April 8, 2024 to live website that impersonate and pass themselves off as the Complainant (the "Infringing Website"). The Infringing Website prominently features the 1XBET Trademarks in various locations and purports to promote and offer bonuses for 1XBET related to the Complainant's business. On this basis, the Complainant alleges that the Respondent is using the disputed domain name and the Infringing Website to engage in illegal activities, in particular to impersonate the Complainant and/or to pass off its services as those of the Complainant. This is further supported by the fact that the Respondent has improperly concealed its identity in order to avoid being contacted, and the Infringing Website do not disclose the absence or nature of the relationship between the Complainant and the Respondent.

Furthermore, the Infringing Website does not disclose which person (individual or company) operates it and offers the possible services or products advertised therein. Instead, the mentions merely including the Complainant's trademark and descriptive terms are displayed at the bottom of the website. Rather than to establish who operates the website and offers services, such display infers affiliation with the Complainant and the 1XBET Trademarks in Internet users' mind and make them believe that the disputed domain name and the corresponding website are directly connected to the Complainant and the 1XBET companies. Therefore, the absence of any relationship or nature of such relationship between the Complainant and the Respondent is not accurately reflected on the website. It is therefore not obvious for Internet users reading the disputed domain name and visiting the corresponding website that those are not affiliated to the Complainant. It appears that the Respondent is benefiting unfairly from this absence of clarity, on the absence of affiliation with the Complainant, to obtain a commercial gain.

Therefore, the Complainant contends that the Respondent has no right nor legitimate interest in respect of the disputed domain name, within the meaning of the Paragraphs 4(a)(ii) and (4)(c) of the Policy.

• The disputed domain name has been registered and is being used in bad faith

The Complainant argues the Respondent registered the disputed domain name many years after the first registrations of the Complainant's 1XBET trademark (2015) and after introduction of the 1xBET brand (in 2007). Consequently, the Complainant's 1XBET Trademarks are well-known.

Moreover, the 1xBET has an online gambling and betting company with the overwhelming presence online. It is very active online through its official website to promote its brand and services. By conducting a simple online search on popular search engines for the term "1xbet", the Respondent would have inevitably learned about the Complainant, its mark and its business.

According to the Complainant, the registration of the disputed domain name - which contains in its second level portion the dominant part of the well-known trademark 1XBET - is intended to create a direct association with the 1xBET group, the Complainant's 1XBET Trademarks, and the Complainant's domain name <1xbet.com>. It reflects the Respondent's clear intent to create an association and subsequent likelihood of confusion with the Complainant's trademark in the minds of Internet users. By reading the disputed domain name, Internet users may believe that it is directly affiliated with or authorized by the Complainant. The Respondent registered the disputed domain name to take advantage of the Complainant's well-known trademark.

Moreover, the disputed domain name resolves to website repeatedly quoting the Complainant's 1XBET trademarks. It further shows that, at the time of the registration of the disputed domain name, the Respondent acquired them very likely with the intent to later use them in connection to the 1XBET trademarks.

Therefore, the Complainant contends that the Respondent has registered and used the disputed domain name in bad faith and its conduct falls within the meaning of Paragraph 4(a)(iii) of the Policy.

In conclusion, the Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.

RESPONDENT:

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

This is a proceeding pursuant to Paragraph 4 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 CAC Supplemental Rules. Paragraph 15 of the Rules provides that the Panel shall decide the complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

As the Respondent has not filed any administratively compliant Response, pursuant to paragraph 14(b) of the Rules, the Panel may draw such inferences therefrom as it considers appropriate.

According to Paragraph 4(a) of the Policy, a complainant must prove each of the following:

(A) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;

(B) the respondent has no rights or legitimate interests in respect of the domain name;

(C) the domain name has been registered and is being used in bad faith.

(A) Identical or confusingly similar domain name

The Complainant demonstrated that it owns the asserted trademark registrations for the 1XBET Trademarks, which was registered before the registration of the disputed domain name by the Respondent. It is also well established that the generic top-level suffix .com may be disregarded when considering whether a disputed domain name is identical or confusingly similar to a trademark in which the Complainant has rights, as it is a necessary technical requirement of a domain name.

The disputed domain name contains the dominant part of the Complainant's 1XBET mark along with the addition of a geographic term ''maroc'', which is the French name for Morocco, while the number "1" is excluded from the disputed domain name. As such, the relevant mark is recognizable in the disputed domain name and is not sufficient to escape the finding that the disputed domain name is confusingly similar to the Complainant's 1XBET mark and does not change the overall impression of the designation as being connected to the 1XBET Trademarks and the Complainant. UDRP panels have recognized 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 sections 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"). Previous UDRP panels have also constantly held that the mere addition of a descriptive or generic term would not prevent a finding of confusing similarity to a trademark (see Minerva S.A. c. Domain Administrator, Fast Serv Inc. d.b.a. QHoster.com, WIPO Case No. D2019-2767)).

The Panel therefore finds that the disputed domain name is confusingly similar to the Complainant's trademark.

(B) Lack of rights or legitimate interests

Under the Policy, a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such a prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP (see WIPO Overview 2.0, paragraph 2.1).

The Respondent has not filed a Response and has neither provided any other information that would oppose the Complainant's allegations. Therefore, the Panel holds that the Complainant successfully presented its prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. In particular, the Respondent is not in any way connected with the Complainant nor is it authorized to use the Complainant's trademark for its commercial activities. In addition, the Respondent is not commonly known by the disputed domain name pursuant to Paragraph 4(c)(ii) of the Policy.

The Panel agrees with the Complainant, that the content of the website associated with the disputed domain name is intended to imply a direct association with the Complainant and its 1XBET Trademarks. The website associated to the disputed domain name clearly mimic the Complainant's official website at "1xbet.com", including the textual elements, colour scheme and the 1XBET Trademarks displayed therein. It is obvious that the intention of the Respondent was to create a direct affiliation with the Complainant and its trademarks and to potentially obtain a commercial gain.

Prior panels have consistently held that using domain names for illegal activity (in this case impersonation of the Complainant together with the offer of services in the form of "promotional codes" under the 1XBET Trademarks) is high evidence of illegitimate interest. Panels have categorically held that the use of a domain name for illegal activity (e.g., the sale of counterfeit goods or illegal pharmaceuticals, phishing, distributing malware, unauthorized account access/hacking, impersonating, passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. (WIPO Overview 3.0, paragraph 2.13.1).

The Panel thus takes the view that the Respondent lacks rights or legitimate interests in the disputed domain name.

(C) Registration and use of the disputed domain name in bad faith

The Panel finds that the Respondent has registered and used the disputed domain name with full knowledge of the Complainant and its trademarks. The Complainant's use and registration of the trademark 1XBET precede the registration date of the disputed domain name. The fact that the Respondent registered the disputed domain name with a clearly recognizable trademark of the Complainant indicates that the Respondent had knowledge of the Complainant's trademark at the time of registration of the disputed domain name. It is reasonable to conclude that this is evidence of registration of the domain name in bad faith.

The disputed domain name resolves to an active website repeatedly quoting the Complainant's 1XBET Trademarks. The website not only uses a very similar trading style to that of the Complainant but also purports to offer bonuses for 1XBET related to the Complainant's business, which is likely intended to confuse Internet users into thinking that the Respondent's offering is that of, or is closely connected with, that of the Complainant.

The Panel believes that it appears unlikely that it is a mere coincidence that the Respondent has registered a disputed domain name incorporating the Complainant's trademark, business name and has created content that is highly similar to the Complainant's

business. The disputed domain name operates by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation or endorsement of the Respondent's website. This use seems intentional. Therefore, the facts satisfy the requirements of paragraph 4(b)(iv) of the Policy.'

Consequently, the Panel finds that the disputed domain name has been registered and has been used by the Respondent in bad faith.

In conclusion, the Panel finds that all three elements required by Paragraph 4(a) of the Policy were met and makes the following decision.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **xbetmaroc.com**: Transferred

PANELLISTS

Name	**Barbora Donathová**

DATE OF PANEL DECISION 2024-05-15

Publish the Decision