Decision for dispute CAC-UDRP-106394

Case number	**CAC-UDRP-106394**
Time of filing	**2024-04-11 09:39:35**
Domain names	**1xbetapk.com**

Case administrator

Name	**Olga Slanařová (Case admin)**

Complainant

Organization	**Navasard Limited**

Complainant representative

Organization	**Sindelka & Lachmannová advokáti s.r.o.**

Respondent

Name	**Xavier Tene**

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.

IDENTIFICATION OF RIGHTS

The Complainant owns numerous trademark registrations for the mark 1XBET as a word mark and figurative mark in several jurisdictions, for instance:

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

FACTUAL BACKGROUND

The Complainant belongs to the group of companies operating under the brand name 1XBET, which is an online gaming platform with worldwide reach. 1XBET was founded in 2007 and the Complainant has existed since March 9, 2015. 1XBET offers sports betting, lottery, bingo, live betting, lottery, etc. 1xBet is licensed by the government of Curacao. 1xBet also promotes responsible gambling on its website.

1XBET T has become one of the world's leading betting companies. The Complainant has won multiple prestigious awards and prizes. The Complainant has also won and been nominated for the SBC Awards, Global Gaming Awards, and International Gaming Awards. 1xBet Betting Company is an active sponsor of the top football tournaments – official presenting partner of Italy´s Serie A,

media´s partner of Spain´s La Liga, and is the sponsor of the of number of big international tournaments such as the Africa Cup of Nations.

1xBET has developed a strong presence and reputation in the global online gambling market, as evidenced by the numerous sponsorship agreements signed with top sports organisations.

In 2019, 1XBET became the FC Liverpool´s official global betting partner.

During May 2022, esports organisation OG Esports announced a sponsorship deal with 1XBET. The agreement names 1xBet as OG's official betting sponsor.

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.

The Respondent registered the disputed domain name <1xbetapk.com> on June 29, 2020 using the privacy services.

PARTIES CONTENTIONS

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

The Complainant has established rights in the 1XBET trademark through its trademark registrations as demonstrated by the evidence adduced. Its trademark registrations also predate the registration date of the disputed domain name.

The question is whether the disputed domain name is identical or confusingly similar to the Complainant’s trademark.

Whether a disputed domain name is identical or confusingly similar to a trademark can be determined by making a side-by-side comparison with the disputed domain name. See F. Hoffmann-La Roche AG v. P Martin, WIPO Case No. D2009-0323.

A disputed domain name is identical to the trademark when it is a character for character match. It is confusingly similar when it varies the trademark by, for example, adding generic terms to the dominant part of the trademark.

The Complainant contends that the disputed domain name <1xbetapk.com> incorporates in its entirety the Complainant’s registered and widely known trademark 1XBET. Further, the addition of the term “apk”, which the Complainant asserts stands for the Android Package file extension designating the file format used by the Android operating system, would not prevent a finding of confusing similarity to the Complainant’s trademark 1XBET.

The Panel considers that the trademark 1XBET is a distinctive mark, and its incorporation into the disputed domain name with the addition of the term ‘apk” makes the variation confusingly similar to the Complainant’s trademark. The Panel accepts that such an addition would not prevent the Panel making a finding of confusing similarity, particularly when the Complainant’s trademark has been wholly incorporated into the disputed domain name.

The Panel considers that dominant part of the disputed domain name is clearly the 1XBET mark, and when coupled with an identifiable acronym for Android Package, i.e. "apk”, makes the disputed domain name confusingly similar to the Complainant’s trademark.

It is also trite to state that the addition of the gTLD “.com” does not add any distinctiveness to the disputed domain name and will be disregarded for the purposes of considering this ground.

Accordingly, the Panel considers that this ground is made out.

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).

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 respondent carries the burden of demonstrating rights or legitimate interests in the disputed domain name.

See Document Technologies, Inc. v. International Electronic Communications Inc, WIPO Case No. D20000270.

If the respondent fails to do so, the complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See Croatia Airlines d.d. v. Modern Empire Internet Ltd, WIPO Case No. D2003-0455.

The Complainant contends the Respondent has no rights to the disputed domain name for the following reasons:

1. The disputed domain name was registered many years after the first registration of the Complainant's trademark.
2. The Respondent has not been licensed or authorised to register or use the disputed domain name, nor is affiliated to the Complainant.
3. There is no evidence that the Respondent is known by the disputed domain name, nor owns any corresponding registered trademark.
4. There is no evidence by WHOIS data of the true identity of the Respondent thereby indicating the Respondent's lack of rights or legitimate interests.
5. 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.
6. The Respondent is using the disputed domain name and its website to engage in illegal activities and impersonating the Complainant. The disputed domain name resolves, as of March 26, 2024, to live website that impersonates and pass themselves off as the Complainant. This website prominently features the 1XBET trademark in various locations and purports to promote and offer bonuses a download application related to the Complainant's business.
7. The website associated to the disputed domain name mimics the Complainant's official website at www.1xbet.com, by the textual elements, colour scheme (different shades of blue, green elements) and the 1XBET trademark displayed therein.
8. The Respondent use of the Complainant's trademark 1XBET and the term "apk" reflects the Respondent's intention to create an association with the Complainant's mobile app (file extension .apk), which is likely to falsely lead internet users to believe that the disputed domain name is directly connected to, authorised, or endorsed by the Complainant.

The Panel notes that the disputed domain name was registered on June 29, 2020. The Complaint was filed on April 10, 2024. This is approximately 46 months after the disputed domain name was registered. The Complainant has led no evidence as to the delay in bringing its case nor explained the delay in its Amended Complainant.

The Respondent on the other hand has not challenged the Complainant's contentions and assertions as it has not filed any administrative compliant response.

Despite the unexplained delay in bringing its case promptly, the Panel is prepared to consider the following matters in favour of the Complainant:

- The long-standing rights of the Complainant to its trademarks 1XBET and its famous reputation worldwide.
- The lack of any administratively compliant response from the Respondent.
- The lack of evidence of any legitimate use of the disputed domain name.
- The history of past dispute between the Complainant and the Respondent in the WIPO forum.

Given the evidence adduced by the Complainant of its portfolio of trademarks and wide reputation which the Panel accepts as evidencing the strength of its reputation, the Panel accepts and finds that the Respondent has no rights or legitimate interests to the disputed domain name.

Accordingly, the Panel considers that this ground is made out.

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).

There are two elements that must be satisfied – registration and use in bad faith.

The Complainant contends that the Respondent registered and is using the disputed domain name in bad faith for the following reasons:

1. The Respondent registered the disputed domain name many years after the first registration of the Complainant's trademark 1XBET in 2015, and after introduction of the 1XBET brand in 2007.
2. 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.

3. The registration of the disputed domain name, which contains in their second level portion the well-known trademark 1XBET and descriptive term related to the 1XBET group's business, is intended to create a direct association with the 1XBET group, the Complainant's 1XBET trademark, and the Complainant's domain name <1xbet.com>.
4. The structure of the disputed domain name shows that the Respondent registered the disputed domain name with the Complainant and its trademark in mind. 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.
5. The disputed domain name resolves to the Respondent's websites repeatedly quoting the Complainant's 1XBET trademark. It further shows that, at the time of the registration of the disputed domain name, the Respondent acquired it very likely with the intent to later use it in connection to the 1XBET trademark.
6. The disputed domain name incorporates the 1XBET trademark and term "apk" that refers to the 1XBET group's area of business mobile betting apps. It resolves to a website repeatedly displaying the 1XBET trademark and aiming at mimicking the Complainant's official website at www.1xbet.com. This reference to the 1XBET trademark aims at attracting the Internet users' attention and infer that the website is affiliated to the Complainant, which the Complainant asserts is not the case. Such use of the disputed domain name creates a likelihood of confusion in Internet users' mind and may lead them to attempt contacting the person operating the website to purchase services.
7. The use of the disputed domain name might generate revenues for the Respondent. Such gain would be unfairly obtained. The Respondent may sell services unrelated to 1XBET services, by capitalising on the fame of the Complainant and its 1XBET trademark. It shows that the Respondent registered and uses the disputed domain name primarily with the intention of attempting to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of such website.
8. The Complainant and the Respondent has had previous disputes as evidenced in the case of Navasard Limited v. Xavier Tene WIPO Case No. D2024-0637 regarding the domain name <1xbet.bot>. The Panel in that case ordered the transfer of the domain name <1xbet.bot> to the Complainant. The Respondent has repeatedly engaged in a pattern of conduct, which support the contention that the registration and use of the disputed domain name is in bad faith.

The Panel is prepared to infer that the Respondent has been fully aware of the Complainant, its 1XBET trademark when registering the disputed domain name. The Panel is also prepared to draw the adverse inference that the Respondent registered the disputed domain name incorporating in its entirety the Complainant's trademark intentionally to take advantage of the Complainant's reputation and business goodwill.

The Panel also accepts the Complainant's uncontradicted assertion that the Respondent cannot claim any rights or legitimate interests in the disputed domain name.

The Panel finds that the Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services.

No challenge has been made by the Respondent to the Complainant's contentions and assertions as it has not filed any administrative compliant response.

Accordingly, the Panel accepts that the disputed domain name was registered by the Respondent and used in bad faith.

PROCEDURAL FACTORS

Notification of proceedings to the Respondent

When forwarding a Complaint, including any annexes, electronically to the Respondent, paragraph 2 of the Rules states that CAC shall employ reasonably available means calculated to achieve actual notice to the Respondent.

Paragraphs 2(a)(i) to (iii) set out the sort of measures to be employed to discharge CAC's responsibility to achieve actual notice to the Respondent.

On May 3, 2024 the CAC by its non-standard communication stated as follows (omitting irrelevant parts):

Written notice was not sent on the Respondent´s address of seat because the address was insufficient and non-existent. The notice of the commencement of the administrative proceeding was therefore only sent by email.

The e-mail notice was sent to <postmaster@1xbetapk.com>, and to <xavier.tene@icloud.com> but CAC never received any proof of delivery or notification of undelivery. No further e-mail address could be found on the disputed site.

The Respondent never accessed the online platform.

Given the reasonable measures employed by CAC as set out in the above non-standard communication, 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

The Complainant owns the trademark 1XBET, and the domain name <1xbet.com>, which are used in connection with its goods or services.

The Respondent registered the disputed domain name <1xbetapk.com> on June 29, 2020.

The disputed domain name was registered after the Complainant's trademark 1XBET.

The Complainant commenced this dispute on April 10, 2024, approximately 46 months after the disputed domain name was registered.

The Complainant challenges the registration of the disputed domain name under paragraph 4(a)(i) of the Uniform Dispute Resolution Policy and seeks relief that the disputed domain name be transferred to the Complainant.

The Respondent failed to file any administratively compliant response.

For the reasons articulated in the Panel's reasons above, the Complainant has satisfied the Panel of the following:

(a) The disputed domain name is identical to the Complainant's widely known trademark.

(b) The Respondent has no rights or legitimate interests in respect of the disputed domain name.

(c) The disputed domain name has been registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **1xbetapk.com**: Transferred

PANELLISTS

Name	**William Lye OAM KC**

DATE OF PANEL DECISION 2024-05-19

Publish the Decision