Decision for dispute CAC-UDRP-106440

Case number	CAC-UDRP-106440
Time of filing	2024-04-15 09:22:49
Domain names	1xbetbangladesh.info

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Navasard Limited

Complainant representative

Organization	Sindelka & Lachmannová advokáti s.r.o.

Respondent

Name	Denys Lobusov

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 is the owner of the following trademarks bearing "1XBET":

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 is also the owner of the domain <1xbet.com>.

FACTUAL BACKGROUND

The Complainant is one of the world's leading betting companies and offers sports betting, lottery, bingo, live betting, lottery, etc.

1xBET was founded in 2007 and the Complainant has existed since March 9, 2015. 1xBET has developed a strong presence and reputation in the global online gambling market, as evidenced by numerous sponsorship agreements signed with top sports organizations.

The Complainant uses, inter alia, the domain name <1xbet.com > and its trademark “1XBET” for its services and as company name.

The disputed domain name has been registered with the Respondent on April 11, 2024.

PARTIES CONTENTIONS

COMPLAINANT'S CONTENTIONS

The Complainant states that the disputed domain name is confusingly similar to the trademark ‘’1xBET’’. ’’1xBET’’ is considered as well-known and market-established betting company. Neither the addition of the geographical term "bangladesh" nor the presence of the generic top-level domain (gTLD) ".info" as part of the disputed domain name preclude similarity.

The Complainant claims that the Respondent has no rights or legitimate interests in respect of the disputed domain name since the Respondent is not licensed nor authorized to use Complainant’s mark.

Furthermore, the disputed domain name has been registered and is being used in bad faith.

The content of the website associated with the disputed domain name is intended to establish a direct connection with the Complainant and its 1XBET trademarks. The trademark ‘’1XBET’’ is cited repeatedly on the website, the disputed domain name resolves to. Furthermore, the website does not provide any information about the person operating the website and their - supposed - relationship with the Complainant.

On the contrary, the website contains the Complainant's contact information which increases the risk that the website is mistakenly associated with the Complainant.

RESPONDENT'S CONTENTIONS:

The Respondent claims that at the moment it does not use any elements of the ''1xBET'' brand on the website, which is still under development and has only one main page. The Respondent states that the disputed domain name has not been used to deceive or mislead users and has not been involved in any unlawful activities or activities prohibited by ICANN. The registration was in compliance with all laws and domain registrar rules, including the privacy service allowed by ICANN.

The Respondent claims that the information published on the disputed domain name does not bring 1xBET into disrepute and does not mislead users. It does not claim to be the official website of the brand. The use of the brand name "1xBET'' is merely for the information of users and comes from open sources that are ICANN-compliant.

In summary, the Respondent claims to have registered and used the disputed domain name in good faith without violating ICANN policies.

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

Paragraph 15(a) of the Rules instructs this Panel to decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable. Taking the statements and documents submitted by the Complainant and by the Respondent under careful consideration, the Panel concludes, that the Complainant has established all the elements entitling it to claim the transfer of the disputed domain name.

I. The disputed domain name is confusingly similar to the trademark “1XBET” of the Complainant.

The Complainant has, to the satisfaction of the Panel, shown that it has valid rights to the trademark “1XBET”.

The disputed domain name includes the Complainant's trademark in its entirety

.

The addition of the geographic name ''bangladesh'' and the addition of the generic top-level domain extension ''.info'' are not sufficient to invalidate the finding that the disputed domain name is confusingly similar to the Complainant's trademark and do not change the overall impression of the name as being associated with the Complainant's trademark.

II. The Respondent has no rights or legitimate interests in respect of the disputed domain name within the meaning of the Policy.

The Complainant has established a prima facie proof that the Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to use its trademark in a domain name.

In particular, the Respondent is not affiliated with nor authorized by the Complainant in any way to use the disputed domain name, and he is not related in any way to the Complainant's business. Moreover, the Respondent has not demonstrated any preparations to use the disputed domain name in connection with a bona fide offering of goods or services. Furthermore, the disputed domain name at stake does not correspond to the name of the Respondent and, according to Complainant´s contentions, the Respondent is not commonly known as "1XBET”. It is therefore not apparent that the website is to be used for bona fide reasons.

The Respondent was also unable to prove that the use of the disputed domain name counted as ‘fair use’. In principle, the use of a domain name by a Respondent is not considered ‘fair’ if it falsely suggests an affiliation with the trademark owner.

The Respondent argues that it does not redirect traffic from its website to other resources that are in any way associated with fraudulent or illegal activities. However, this is not enough to assume ‘fair use’.

The panels have developed several factors to assess whether general facts and circumstances justify a claim of fair use. These include - among others - whether it is clear to internet users visiting the Respondent's website that it is not operated by the Complainant and if there is a clearly visible link, including explanatory text, to the website of the trademark owner in question.

It is not clear to users that the website of the Respondent is not operated by the Complainant and a link with an explanatory text is also not available. Instead, the Respondent uses the terms '1xBET' and '1xBETBANGLADESH' as if they were synonymous. Although the Complainant's contact information is available on the website, this does not serve to provide users with information about the website owner, but rather to suggest that the website is operated by the Complainant. The Respondent thus falsely suggests that the website is operated by the Complainant.

III. The disputed domain name has been registered and is being used in bad faith within the meaning of the Policy.

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

Firstly, the timing of the registration of the disputed domain name indicates the Respondent's bad faith in registering such domain name, as, at that time according to the provided evidence, the Complainant's trademark "1XBET" was already well-known for several years in the industry of sports betting and predictions due to its online presence. The prominent sponsorship contracts, media reports and awards and prizes won further contribute to the Complainant's public profile.

The Respondent deliberately uses the Complainant's trademark on its website and even names the Complainant as its contact person. In addition, it advertises with the same services as the Complainant and uses its status as a leading betting company to attract attention. The structure of the disputed domain name shows that the Respondent registered it with the Complainant and its trademarks in mind. This shows the Respondent's clear intention to create an association and thus a likelihood of confusion with the Complainant's trademark in the mind of internet users. The internet users should believe that the Respondent's website is an authorised website for the Complainant's services, although this is not the case. The likelihood of confusion is dramatically increased by the mention of the Complainant's contact details on the Respondent's website.

According to 4 (b) (iv) of the Policy, such a likelihood of confusion is a circumstance in which bad faith registration and use can be assumed.

The Complainant's objection that the website does not purport to be 1xBET and that the contact details are for information purposes only is unsuccessful. There is no indication that the Respondent merely wishes to inform users about the Complainant. Even assuming that this was the Respondent's intention, this cannot conceal the fact that many users were not informed, but rather deceived.

The fact that the disputed domain name may currently be held passively does not change this result. If this fact were to support the Respondent, trademark owners would not be able to enforce their trademark rights in a situation such as the one at hand. The Panel, at least in this kind of cases, regards the passive holding of a domain name in dispute as use of such domain name, as use in bad faith.

Therefore, the Panel considers the Respondent's behaviour as an expression of bad faith registration and use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **1xbetbangladesh.info**: Transferred

PANELLISTS

Name	**Dominik Eickemeier**

DATE OF PANEL DECISION 2024-05-30

Publish the Decision