Decision for dispute CAC-UDRP-106731

Case number	CAC-UDRP-106731
Time of filing	2024-07-23 09:40:38
Domain names	telecharger-1xbet.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Navasard Limited

Complainant representative

Organization	Sindelka & Lachmannová advokáti s.r.o.

Respondent

Name	Vasily Sarychev

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 a number of jurisdictions, for instance:

- European Union trademark No. 013914254 IXBET (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.

All 1XBET Trademarks predate the registration dates of the disputed domain name.

FACTUAL BACKGROUND

The Complainant 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. Furthermore, 1xBet promotes responsible gambling on its website.

1xBET has become one of the world's leading betting companies. This is proven by multiple prestigious awards and prizes the

company has won and been nominated for, namely at 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 organizations. For example, in July 2019, FC Barcelona announced that it had signed a partnership with 1xBet, naming the company as the team's new global partner.

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

During May 2022, esports organisation OG Esports announced that the company had signed 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 Complainant's 1XBET trademark. 1xBET uses this domain name to resolve to its online betting websites. The Respondent has registered the disputed domain name on April 26, 2023 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.

The Respondent does not rebut Complainant’s allegations one by one. Instead, it states the following paragraphs on the Response form multiple times:

“Hello, this request looks very strange and shocking because we are quite old affilate partner team of 1xbet and registered this domain, worked on it and spent a lot of resources for more than a year according to internal agreement that we can use such domains but will get greatly reduced comission from them. So now this looks like break of internal rules without any prelimenary discussion with us. Regards, Vasilii”.

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 claims that the disputed domain name incorporates in its entirety the Complainant’s registered and widely known trademark 1XBET. Moreover, the addition of the descriptive term “telecharger” which is a French word meaning “to download”, would not prevent a finding of confusing similarity to the trademark under the first element. The presence of the generic Top-Level Domain (gTLD) “.com” in the first level portion of the disputed domain name is a standard registration requirement and may be disregarded when assessing whether the disputed domain name is confusingly similar to the trademark in which the Complainant has rights.

By doing a side-by-side comparison, the Panel agrees that the disputed domain name is confusingly similar to Complainant's trademark, see Piriform Software Limited v. iqbal fajrian, 102983 (CAC 2020-05-08) ("In assessing identity or confusing similarity the Panel finds that the disputed domain name incorporates the entirety of the Complainant's trademark and differs from such mark by merely adding the generic and descriptive term “downloads”, as well as the TLD “.com”. The addition of such generic and descriptive term (clearly related to the business of the Complainant) to the Complainant's mark neither affects the attractive power of such trademark, nor is sufficient to distinguish the disputed domain name from the Complainant's mark.")

For the foregoing reasons, the Panel finds the Complainant has satisfied 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). More specifically, the Complainant must first make a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name, and the burden of prove then shifts to the Respondent to show it does have rights or legitimate interests. See PepsiCo, Inc. v Smith power production, 102378, (CAC 2019-03-08) ("The Panel finds that the Complainant has made out a prima facie case that arises from the considerations above. All of these matters go to make out the prima facie case against the Respondent. As the Respondent has not filed a Response or attempted by any other means to rebut the prima facie case against it, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.").

The Complainant claims that the disputed domain name was registered on April 26, 2023 which is many years after the first

registrations of the Complainant's 1XBET trademarks. 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 also 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 Complainant also alleges that the content of the website associated with the disputed domain name is intended to imply a direct association with Complainant and its 1XBET Trademarks. The website mimics the Complainant's official website on <1xbet.com>, by the textual elements, colour scheme (different shades of blue, green elements) and the 1XBET trademarks displayed therein.

The Panel finds that the Complainant has established a prima facie case that the Respondent has no rights or legitimate interests in the disputed domain name as it is commonly agreed that passive holding does not constitute a bona fide offering of goods and services or a legitimate non-commercial or fair use of the disputed domain names, see ARCELORMITTAL (SA) v. Milen Radumilo, 102379 (CAC 2019-04-18). The burden of proof has been shifted to the Respondent to prove that it has right or legitimate interests to the disputed domain name.

The Respondent rebuts that it is a quite old affiliate partner team of the Complainant and it has the permission to register and use the disputed domain name according to an internal agreement. However, no evidence has been produced by the Respondent. The Panel is not convinced due to lack of any supporting document for further examination. Having considered the relevant circumstances, the Panel decides that the Respondent failed to prove that it has right or legitimate interests to the disputed domain name.

For the foregoing reasons, the Panel finds the Complainant has satisfied 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).

The Complainant reiterates that the disputed domain name was registered by the Respondent many years after the first registrations of the Complainant's 1XBET trademark in 2015 and after introduction of the 1xBET brand in 2007. The Complainant's 1XBET trademarks are widely known and with overwhelming presence online.

The Complainant further asserts that the Respondent registered the disputed domain name with the Complainant and its trademarks 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. The Respondent registered the disputed domain name to take advantage of the Complainant's well-known trademark. Moreover, the disputed domain name resolves to websites 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 it very likely with the intent to later use it in connection to the 1XBET trademarks.

In addition, the Complainant also alleges that the disputed domain name resolves to a website repeatedly displaying the 1XBET trademark and aiming at mimicking the Complainant's official website at "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 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. Thus, 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 capitalizing 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.

Having reviewed the screenshots provided by the Complainant, the Panel is of the view that the Respondent likely has actual knowledge of Complainant's 1XBET trademark during the registration of the disputed domain name and the use of the disputed domain name further evinces it. Despite the Respondent claims that it is an affiliated partner team of the Complainant, it does not provide any evidence to support the assertion. Pursuant to paragraph 4(b)(iv), it is more likely that not that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to the website resolved by the disputed domain name, by creating a likelihood of confusion with the Complainant's 1XBET mark as to the source, sponsorship, affiliation, or endorsement of the website. See Chai Research Corp. v. Andrew Haynes, 105900 (CAC 2023-11-17) ("The Panel recalls that the Complainant provides a screenshot of the disputed domain name's resolving website offering an identically-branded app for download. The Respondent's website shows an image of a smartphone shown to be running a "Chai" AI chat app, and uses the same colors associated with the Complainant's genuine "CHAI" app. The Panel finds that the Respondent's use of the disputed domain name <CHAI-APP.com> to pass off as the Complainant and to offer competing services and/or goods is evidence of bad faith registration and use pursuant to Policy paragraph 4(b)(iv).") See also paragraph 4.2 of the WIPO Overview 3.0 ("The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence"; some panels have also expressed this as an "on balance" standard. Under this standard, a party should demonstrate to a panel's satisfaction that it is more likely than not that a claimed fact is true. While conclusory statements unsupported by evidence will normally be insufficient to prove a party's case, panels have been prepared to draw certain inferences in light of the particular facts and circumstances of the case e.g., where a particular conclusion is prima facie obvious, where an explanation by the respondent is called for but is not forthcoming, or where

no other plausible conclusion is apparent…").

For the foregoing reasons, the Panel finds the Complainant has satisfied 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

Having established all three elements required under the UDRP Policy, the Panel concludes that the disputed domain name should be transferred to the Complainant.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **telecharger-1xbet.com**: Transferred

PANELLISTS

Name	**Mr Paddy TAM**

DATE OF PANEL DECISION 2024-08-27

Publish the Decision