Decision for dispute CAC-UDRP-106777

Case number	CAC-UDRP-106777
Time of filing	2024-08-16 10:38:51
Domain names	telecharger1xbet-senegal.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	Navasard Limited

Complainant representative

Organization	Sindelka & Lachmannová advokáti s.r.o.

Respondent

Name	Yaroslav Dmitriev

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 has proven to be the owner of the “1XBET” trademark.

The Complainant is, inter alia, the owner of the following trademarks:

- EUTM registration no. 014227681 “1XBET” (word), registered on September 21, 2015;
- EUTM registration no. 017517327 “1XBET” (device), registered on March 7, 2018;
- EUTM registration no. 017517384 “1XBET” (device), registered on March 7, 2018.

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

FACTUAL BACKGROUND

FACTS ASSERTED BY THE COMPLAINANT AND NOT CONTESTED BY THE RESPONDENT:

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. This group was founded in 2007 and the Complainant has existed

since 9 March 2015. The Complainant offers sports betting, bingo, live betting, lottery etc.

The Complainant has become a leading betting company.

The Complainant has proven to be the owner of the “1XBET” trademarks.

The disputed domain name was registered on December 11, 2023.

The Complainant’s trademark and domain name registrations predate the registration of the disputed domain name.

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.

1. The disputed domain name is confusingly similar to the Complainant's trademark

The Complainant contends that the disputed domain name <telecharger1xbet-senegal.com> is confusingly similar to its “1XBET” trademark. The Complainant further affirms that the disputed domain name, <telecharger1xbet-senegal.com>, incorporates the trademark “1XBET” in its entirety with the addition of the descriptive term “telecharger” (meaning “to download” in French) and “Senegal”, and that this addition would not prevent a finding of confusing similarity to a trademark under the first element.

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

The Complainant contends that the Respondent is not commonly known by the disputed domain name and that the Respondent is not affiliated with or authorized by the Complainant in any way. The Complainant contends that 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 Complainant further claims that the structure of the disputed domain name – incorporating the 1XBET trademark, the descriptive term “telecharger” and the geographic term “Senegal” – 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 those trademarks, in the minds of internet users.

3. The disputed domain name was registered and is used in bad faith

The Complainant contends that owing to the renown of the Complainant’s trademarks, it is presumable that the Respondent had actual knowledge of the Complainant’s distinctive trademarks.
The Complainant further contends that the structure of the disputed domain name shows that the Respondent registered it with the Complainant and its trademarks in mind.
In addition, the Complainant claims that the disputed domain name resolves to websites that repeatedly use the Complainant’s 1XBET trademarks, and that this further shows that, at the time of the registration of the disputed domain name, the Respondent acquired it very likely with the intent to use it at a later date in connection with the 1XBET trademarks. It shows that the Respondent registered and is using 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.
Finally, the Complainant alleges that the Respondent has associated the disputed domain name with email servers, which creates a risk that the Respondent may use the disputed domain name for misrepresentation and/or phishing and spamming activities.

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

A) Confusing similarity

The Panel agrees with the Complainant's assertions that the addition of the descriptive terms, “telecharger” and “Senegal” does not prevent the disputed domain name from being confusingly similar to the Complainant’s trademarks.
In fact, the addition in the disputed domain name of these elements does not prevent the Complainant’s trademark from being recognizable in the disputed domain name.
Pursuant to section 1.8 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”) which states: “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. The nature of such additional term(s) may however bear on assessment of the second and third elements.”
Therefore, the Panel finds the disputed domain name to be confusingly similar to the Complainant’s trademarks.

B) Lack of legitimate rights or interests

It is unlikely that the Respondent registered the disputed domain name without having the Complainant firmly in mind. The Complainant’s assertions that the Respondent is not commonly known by the disputed domain name and is not affiliated with nor authorized by the Complainant are sufficient to constitute a prima facie demonstration of the absence of rights or legitimate interests in the disputed domain name on the part of the Respondent. The burden of evidence therefore shifts to the Respondent to show, using tangible evidence, that it does have rights or legitimate interests in the disputed domain name. The Respondent has made no attempt to do so.
Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C) Registered or Used in Bad Faith

The Complainant gives sound bases for its contention that the disputed domain name was registered and has been used in bad faith.

Firstly, owing to the distinctiveness of the Complainant's trademark and reputation in the betting field, it is reasonable to infer that the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark.
Therefore the Panel finds on the balance of probabilities that the Respondent was aware of the Complainant’s trademark when registering the disputed domain name.

Secondly, the Panel accepts the Complainant’s unchallenged assertion that the Respondent registered the disputed domain name with the aim of creating a likelihood of confusion with the Complainant’s trademark.

In fact, the disputed domain name resolves to a website repeatedly displaying the 1XBET trademark. This reference to the 1XBET trademark aims to attract the attention of internet users, claiming to offer to show them how to download the 1XBET application on an iPhone in Senegal.

Such use of the disputed domain name creates a likelihood of confusion in Internet users’ mind. The Panel thus believe that by using the disputed domain name, the Respondent has intentionally attempted to attract, presumably for commercial gain, Internet users to its web site by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its web site (par. 4(b)(iv) of the Policy).

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **telecharger1xbet-senegal.com**: Transferred

PANELLISTS

Name	**Fabrizio Bedarida**

DATE OF PANEL DECISION 2024-09-13

Publish the Decision