Decision for dispute CAC-UDRP-106771

Case number	CAC-UDRP-106771
Time of filing	2024-08-08 09:07:08
Domain names	1xbetsrilanka.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

Organization	Promoua

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 a registered owner the following trademarks containing a word element "1XBET”:

- 1XBET (word), EU Trademark, priority (filing) date 08 June 2015, registration date 21 September 2015, trademark application no. 014227681, registered for services in the international classes 35, 41, and 42;
- 1XBET (figurative), EU Trademark, priority (filing) date 31 November 2017, registration date 7 March 2018, trademark application no. 017517384, registered services in the international classes 41, and 42;

(collectively referred to as "Complainant's trademarks").

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.

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 – the official presenting partner of Italy´s Serie A, media partner of Spain´s La Liga, and is the sponsor of a 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.

The disputed domain name was registered on 22 June 2022 and is held by the Respondent.

The disputed domain name website (i.e. website available under the internet address containing the disputed domain name) has a similar layout and “look and feel” as the Complainant’s websites (i.e. it mimics the official Complainant’s websites) and appears to include information about betting and it also offers services that are related to the services provided by the Complainant under the 1XBET brand.

The Complainant seeks transfer of the disputed domain name to the Complainant.

PARTIES CONTENTIONS

COMPLAINANT:

CONFUSING SIMILARITY

The Complainant states that:

i. The disputed domain name contains the "1XBET " word element of the Complainant's trademarks in its entirety.
ii. In addition, the disputed domain name contains only a word element “SRILANKA”, which stands for a country in Asia and has no distinctive character.

Thus, according to the Complainant, the confusing similarity between the Complainant’s trademarks and the disputed domain name is clearly established.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant states that:

i. The Respondent has not been commonly known by the disputed domain name.
ii. The Complainant has not authorized, permitted, or licensed the Respondent to use the Complainant’s trademarks in any manner. The Respondent has no connection or affiliation with the Complainant whatsoever. On this record, the Respondent is not commonly known by the disputed domain name.
iii. The disputed domain name website implies a direct association with the Complainant and its 1XBET Trademarks as it repeatedly quotes the 1XBET word and figurative marks.
iv. 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.

Furthermore, the domain name website has not been used for any legitimate or fair purposes.

BAD FAITH REGISTRATION AND USE

The Complainant states that:

i. Seniority of the Complainant's trademarks predates the disputed domain name's registration and such trademarks are well known in relevant business circles. The Respondent can be considered aware of the Complainant's trademarks when registering the disputed domain name due to its well-known character.
ii. The disputed domain name (at the time of filing of the complaint) is not used for any bona fide offerings. More particularly, there are present circumstances indicating that, by using the domain name, the Respondent has registered the disputed domain name primarily for creating a likelihood of confusion with the Complainant's trademarks and

business as to the source, sponsorship, affiliation, or endorsement of his website.

iii. The dispute domain name website does not identify the person (individual or company) operating the site and offering any advertised services or products. Instead, the website merely displays the Complainant's trademarks and descriptive terms at the bottom of the website.

RESPONDENT:

The Respondent has not provided any response to the complaint.

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

RIGHTS

The disputed domain name and the Complainant’s trademarks are not identical. Therefore, the key element investigated and considered by the Panel is whether the disputed domain name is confusingly similar to the Complainant’s trademarks.

The threshold test for confusing similarity under the UDRP involves a comparison between the trademark and the disputed domain name itself to determine the likelihood of Internet user confusion. In order to satisfy this test, the relevant trademark would generally need to be recognizable as such within the disputed domain name. The addition of common, dictionary, generic, or other descriptive terms is typically insufficient to prevent threshold Internet user confusion. Confusing similarity tests under the UDRP typically involve a straightforward visual and aural comparison of the trademark with the domain name in question.

Applying the principles described above, the Panel contends that incorporation of a dominant "1XBET" element of the Complainant’s trademarks (which standalone enjoys a high level of distinctiveness) into the disputed domain name constitutes a confusing similarity between the Complainant’s trademark and the disputed domain name.

The addition of a non-distinctive element – a descriptive geographical term SRI LANKA – cannot escape association in the eyes of internet consumers between the disputed domain name and the Complainant’s trademarks and thus the likelihood of confusion still exists. On the contrary, it may mislead the internet users that the disputed domain name is somehow related to the Complainant's business.

For the sake of completeness, the Panel asserts that the top-level suffix in the domain name (i.e. the “.com”) must be disregarded under the identity and confusing similarity tests, as it is a necessary technical requirement of registration.

Therefore, the Panel has decided that there is identity in this case, it also concludes that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTERESTS

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 prima facie showing of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent.

Given the facts above and in the absence of the Respondent's response, the Panel concludes that there is no indication that the disputed domain name was intended to be used in connection with a bona fide offering of goods or services as required by UDRP.

Consequently, the evidentiary burden shifts to the Respondent to show by concrete evidence that it does have rights or legitimate interests in that name. However, the Respondent failed to provide any information and evidence that it has relevant 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's Trademarks are well-known and have received widespread recognition and predate registration of the disputed domain name. The complex name “1XBET” is a denomination with a high degree of distinctiveness. It follows that it is highly implausible that Respondent would register a disputed domain name for itself without knowing the Complainant’s trademarks and their reputation. This clearly indicates bad faith registration of the disputed domain name by the Respondent.

In addition, the Complainant has proven that the Respondent has used (at least for some time) the disputed domain name for promotion and offer services (i) likely with the intention to free-ride on reputation and goodwill of Complainant’s trademarks and Complainant’s business and, even more importantly, (ii) in a manner that was detrimental both to the customers as well the Complainant and his business since the information provided about such services were incorrect and misleading.

By using the disputed domain name, the Respondent intentionally attempted to attract, likely for commercial gain from the advertisement, Internet users to the disputed domain name website by creating a likelihood of confusion with the Complainant's trademark to the source, sponsorship, affiliation, or endorsement of the disputed domain name website.

Such unfair use of the disputed domain name for the promotion of Respondent’s services cannot be considered as the use thereof in good faith and in compliance with fair business practices.

All of the activities above are considered malicious activities.

It is well-founded that registration of the disputed domain name that is confusingly similar to the complainant’s trademarks which enjoys a strong reputation, plus other facts, such as the above-described unfair use of the disputed domain name, are sufficient to establish bad faith under the 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **1xbetsrilanka.com** : Transferred

PANELLISTS

Name	**Jiří Čermák**

DATE OF PANEL DECISION 2024-09-15

Publish the Decision