Decision for dispute CAC-UDRP-106821

Case number	CAC-UDRP-106821
Time of filing	2024-09-02 10:10:19
Domain names	1xbetbangladesh.com

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 owns various trademarks registrations for the mark 1XBET including:

- European Union word trademark number 013914254, registered on 27 July 2015;
- European Union figurative trademark number 017517327, registered on 7 March 2018; and
- European Union figurative trademark number 017517384, registered on 7 March 2018.

FACTUAL BACKGROUND

The Complainant owns the 1XBET trademarks and the domain name <1xbet.com>. The Complainant also operates a website under the domain name <1xbet.com>, which it uses for its online betting websites.

The Complainant belongs to the group of companies operating under the brand name 1xBET. 1xBet was founded in 2007 and offers sports betting, bingo, live betting, and lottery. It is licensed by the government of Curacao.1xBET is one of the world's leading betting companies. It has won multiple awards including the SBC Awards, Global Gaming Awards, and International Gaming Awards. It has a global presence and is a sponsor of OG Esports, Italy's Serie A football tournament and Spain's La Liga, the Africa Cup of Nations and Barcelona and Liverpool football clubs.

The Complainant has been successful in numerous UDRP cases in which the 1XBET trademark was incorporated in the disputed domain name.

The Respondent registered the disputed domain name on 12 December 2021 using a privacy service.

The Respondent resides in Ukraine. He was named as the respondent in Navasard Limited v Denys Lobusov, CAC-UDRP Case number 106440, <1xbetbangladesh.info>, in which the Panel transferred the disputed domain name to the Complainant.

PARTIES CONTENTIONS

The Complainant

The Complainant asserts that the disputed domain name is confusingly similar to its 1XBET trademark. It states that the Respondent has no rights or legitimate interests in the disputed domain name. It says the disputed domain name fully incorporates its trademark 1XBET and the website linked to it is intended to imply a direct association with Complainant and its 1XBET mark. The 1XBET mark appears prominently and repeatedly on the linked website and the textual elements and colour scheme mimics the Complainant's official website at <1xbet.com>.

The Complainant asserts that the infringing website purports to promote and offer bonuses for 1XBet or a downloadable application related to Complainant's business and gives the false impression that it is the Complainant's official Bangladesh website. The Respondent is using the disputed domain name and associated website to engage in illegal activities to impersonate the Complainant and/or to pass off its services as those of the Complainant.

The Complainant asserts that the Respondent registered and is using the disputed domain name in bad faith. The Respondent registered the disputed domain name many years after the introduction of the 1xBET brand in 2007 and the registration of the 1XBET trademark in 2015. 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. The Respondent intended in bad faith to create a direct association with the 1xBET group, the 1XBET trademarks, and the Complainant's domain name <1xbet.com> in the minds of Internet users.

In its further submission the Complainant asserts that:

1. the disputed domain name uses a generic top-level domain ".com" and not a country code top-level domain for Bangladesh;
2. the 1XBET trademarks qualify as trademarks under the UDRP, even if they are not registered worldwide, thereby satisfying the first element of the UDRP.
3. the Respondent is intentionally targeting the Complainant and its trademarks and registered another domain name incorporating the 1XBET trademarks, as evidenced by the CAC-UDRP case number 106440, where the panel found that the Respondent was acting in bad faith and ordered the transfer of the domain name <1xbetbangladesh.info> to the Complainant;
4. there is nothing to verify the Respondent's claim that he has applied for a new trademark in Bangladesh; and
5. a trademark application, especially a defensive application filed on 3 October 2024, after the Respondent became aware of the UDRP proceeding, cannot establish legitimate rights under the second element of the UDRP.

The Respondent

The Respondent asks the Panel to reject the Complaint. He asserts that:

1. he uses the disputed domain name for legitimate traffic procurement activities in Bangladesh and does not infringe the Complainant's rights;
2. regarding similarity to a trademark, while the disputed domain contains "1xbet", the word "bangladesh" clearly highlights the geo;
3. he is in the process of registering the trademark "1xbetbangladesh" in Bangladesh and has submitted evidence of his trademark application in Bangladesh dated 3 October 2024;
4. the Bangladesh Trade Marks Act, 2009 and Bangladesh law gives trademark protection only in the jurisdictions where a trademark is registered: anyone can use an unregistered trademark, provided that it does not conflict with the general principles of good faith and does not mislead consumers; and
5. the Complainant does not have a registered trademark or company in Bangladesh and has no legal basis to file a Complaint in the jurisdiction of Bangladesh.

In the Respondent's reply to the Complainant's further submission, the Respondent states:

1. regardless of the timing of the trademark application, this step shows a desire to legitimise the use of the brand in Bangladesh, supporting his interest in fair usage of the disputed domain name;
2. regarding the earlier case, Navasard Limited v Denys Lobusov, CAC-UDRP case number 106440 against the Respondent as evidence of bad faith, the Respondent states that each case must be assessed individually and cannot serve as direct evidence of bad faith;
3. the Complainant must provide clear evidence that the Respondent acted with malicious intent. He says his purpose was not to "target" the Complainant's brand but to develop a business under the disputed domain name, which has a legitimate usage;
4. regarding bad faith, the Complainant must provide clear evidence that the Respondent acted with malicious intent. The use of a domain name with a geographic reference, such as "ukraine," indicates the Respondent's intention to focus on a specific market and does not attempt to attract traffic or clients associated with the Complainant's brand; and
5. his actions were not intended to create confusion with the Complainant's brand.

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 must ensure that the parties are treated equally and given a fair opportunity to present their case. The Panel also has a duty to ensure that the administrative proceeding takes place with due expedition but may, in exceptional cases, extend a time limit fixed by these Rules (see UDRP Rules, paragraph 10).

The Complainant filed an unsolicited additional statement, titled "Complainant's observations". To allow the Respondent a fair opportunity to reply to the Complainant's observations, the Panel made an Administrative Order under UDRP Rules, paragraph 10 and 12. The effect of the order was to give the Respondent time file an additional statement, and to extend the time limit for to Panel's decision by four days to 30 October 2024.

The parties' additional submissions are summarised under the heading "Parties' submissions".

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 4 (a) of the Policy requires the Complainant to prove, on the balance of probabilities, each of the following three elements:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in the disputed domain name; and

(iii) the disputed domain name has been registered and used in bad faith.

The Panel must 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.

IDENTICAL OR CONFUSINGLY SIMILAR

According to the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (WIPO Jurisprudential Overview 3.0), because of the global nature of the Internet and domain name system, the jurisdiction where the trademark is registered is irrelevant to finding rights in the mark (F. Hoffmann-La Roche AG v. Relish Enterprises, WIPO Case No. D2007-1629).

The Complainant has submitted evidence of its rights in the trademark 1xBET, which predate the Respondent's registration of the disputed domain name, and has satisfied the threshold requirement of trademark rights.

The Complainant's trademark IXBET is clearly recognisable in the disputed domain name. Adding the country name Bangladesh to that mark and the top-level suffix ".com" does not avoid a finding that the disputed domain name is confusingly similar to Complainant's trademark.

The Panel finds that the Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy.

NO RIGHTS OR LEGITIMATE INTEREST

The UDRP Policy is incorporated by reference into the registration agreement with the registrar when the Respondent registered the disputed domain name. It is his responsibility to determine whether the domain name registration violates someone else rights (paragraph 1 and 2 of the UDRP Policy).

The Complainant has submitted evidence of its rights in the 1XBET trademark that predate the registration of the disputed domain name by many years. The Complainant is not affiliated with the Respondent, nor is the Respondent licenced to use the Complainant's trademark in the disputed domain name.

Under paragraph 4 c. of the UDRP Policy, the Respondent may demonstrate his rights to or legitimate interests in the disputed domain name as follows:

(i) before any notice of the dispute, he has used or has demonstrable preparations to use, the disputed domain name or a name corresponding to it in connection with a bona fide offering of goods or services; or

(ii) he has been commonly known by the disputed domain name;

(iii) he is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel finds no merit in the Respondent's claim that he has rights or legitimate interests in the disputed domain name. His trademark application in Bangladesh for "1xbetbangladesh" was made on 3 October 2024, only after he had notice of the dispute, and after he had notice in April 2024 of the decision against him in Navasard Limited v Denys Lobusov, CAC-UDRP case number 106440.

Given the global nature of the Internet and the popularity of online betting, it is likely that the Respondent knew of the Complainant's rights when it registered the disputed domain name. The trademark application in Bangladesh appears designed primarily to circumvent the application of the UDRP. Generally, UDPR panels in such circumstances decline to find that the respondent has relevant rights or legitimate interests (see paragraph 2.12.2 of WIPO Jurisprudential Overview 3.0).

The Respondent has offered no evidence that he is commonly known by the disputed domain name, nor any evidence of any legitimate use. The website linked to the disputed domain name is not being used for traffic procurement as alleged by the Respondent. Instead, it specifically refers to the Complainant's business 1xBet as "a renowned global betting company", it refers to the Complainant's licence in Curacao, and offers online betting under the 1XBET name and states: "you are navigating to the authentic 1xBet online site". By incorporating the Complainant's 1XBET trademark, the country name Bangladesh plus frequent references to 1xBet, the Panel concludes is that the Respondent intends to mislead Internet users into believing that the disputed domain name is connected to, or authorised by the Complainant.

The Respondent is not attempting to limit his operations to Bangladesh by using country code top-level domain ".bd" but is the using generic top-level domain ".com" which has wider reach.

Having considered the evidence submitted, the Panel concludes that the Respondent has no rights or legitimate interest in the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been met.

REGISTERED AND USED IN BAD FAITH

The Complainant's trademark predates the registration of the disputed domain name by many years.

The Respondent registered the disputed domain name using a privacy service. The disputed domain name incorporates the

Complainant's trademark and the linked website is designed to suggest an association with the Complainant, its 1XBET trademark and its betting services. The overall impression is that the Respondent registered and is using the disputed domain name in bad faith to intentionally attract, for commercial gain, Internet users to the linked website, by creating a likelihood of confusion with the Complainant's mark and its online betting services.

The Panel concludes that the Respondent both registered and is using the disputed domain name in bad faith and that the requirements of paragraph 4(a)(iii) of the Policy have been met.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **1xbetbangladesh.com**: Transferred

PANELLISTS

Name	**Veronica Bailey**

DATE OF PANEL DECISION 2024-10-28

Publish the Decision