Decision for dispute CAC-UDRP-106966

Case number	**CAC-UDRP-106966**
Time of filing	**2024-10-18 09:42:15**
Domain names	**promo-1xbet-az.com**

Case administrator

Name	**Olga Slanařová (Case admin)**

Complainant

Organization	**Navasard Limited**

Complainant representative

Organization	**Sindelka & Lachmannová advokáti s.r.o.**

Respondent

Name	**Alex Voronov**

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 word or figurative trademark 1XBET in various jurisdictions, including international registration No. 1669925, registered on April 06, 2022, claiming protection for services in classes 41 and 42 and designating, inter alia, Canada and the United States of America ("USA").

The Complainant also operates a website under the domain name <1xbet.com>, which includes the Complainant's mark. This website is used to resolve to the Complainant's betting websites.

FACTUAL BACKGROUND

The Complainant is a company incorporated in 2015, which belongs to a group of companies operating under the trademark 1XBET. 1XBET is an online gaming platform with worldwide reach founded in 2017. The 1XBET platform offers sports betting, lottery, bingo, live lottery and other kinds of online games in multiple languages. The 1XBET platform is licensed by the government of Curacao and promotes responsible gambling on its website. Throughout the years, 1XBET has become one of the world's leading betting companies and has won multiple recognitions. The Complainant is one of the official sponsors of the most prestigious football tournaments, which includes being partner of Italy's Serie A and Spain's La Liga. In 2019, the Complainant became FC Barcelona and FC Liverpool global partner. In 2022 the Complainant has signed a sponsorship agreement with the Complainant. As such, 1XBET has become OG Esport's official betting sponsor.

The Respondent is an individual allegedly located in Canada. The disputed domain name was registered on September 12, 2024.

PARTIES CONTENTIONS

The Complainant maintains that the disputed domain name is confusingly similar to the Complainant's mark. The disputed domain name is fully included in the Complainant's mark with the addition of the term "promo", which is usually understood as the abbreviation of the term "promotion" or "promotional", and the suffix "az", which stands for “Azerbaijan”, or is the abbreviation of the State of “Arizona”. The addition, in the disputed domain name, of these two descriptive elements to the Complainant's mark cannot prevent a finding of confusing similarity.

The Complainant also maintains that the Respondent lacks rights or legitimate interests in the disputed domain name. The Complainant has not licensed or otherwise authorized the Respondent to use the 1XBET mark. The Respondent is not affiliated with the Complainant and there is no evidence that the Respondent is known by the disputed domain name or owns any trademark corresponding to the disputed domain name. The structure of the disputed domain name reflects the Respondent's intention to create an association with the Complainant and its 1XBET mark. Internet users could believe that the disputed domain name originates from the Complainant, while this is not the case. The disputed domain name does not resolve to an active website. When typing the disputed domain name on a search engine, the message "Invalid SSL certificate" along with the explanation "the origin web server does not have a valid SSL certificate” appear. Accordingly, the Complainant lacks rights or legitimate interests in the disputed domain name.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. As far as registration in bad faith is concerned, the Complainant points out that the Respondent registered the disputed domain name well after the registration of the Complainant's mark in 2015, and after the Complainant started using its trademark in 2007. Moreover, the Complainant's 1XBET mark is widely known. Being an online gambling and betting company, the Complainant has a strong online presence and heavily promotes its trademark and services through its official websites. A simple online search on the term "1xbet" would have led to the Complainant, its mark and business. Moreover, the composition of the disputed domain name suggests full knowledge of the Complainant's mark at the time of the registration of the disputed domain name. The composition of the disputed domain name reflects the Respondent's intention to create an association and subsequent likelihood of confusion with the Complainant's mark in the mind of the Internet users. Lastly, the Complainant underlines that its 1XBET mark is registered both in Azerbaijan and the United States, to which the abbreviation "az" contained in the disputed domain name refers. Moreover, the same trademark is registered in Canada, where the Respondent is allegedly located.

With respect to use in bad faith, the Complainant argues that despite there is no active use of the disputed domain name, a passive use cannot preclude a finding of bad faith under the passive holding doctrine. The Complainant's mark is renown, which is confirmed by the multiple awards and prizes the Complainant has won, the fact that the Complainant with its 1XBET mark is an active sponsor the top football tournament, has signed numerous sponsorship agreements, and is one of the world's leading betting companies. Furthermore, various previous UDRP decisions recognize the reputation of the 1XBET mark. In addition, the Respondent has used a privacy shield at the time of the registration of the disputed domain name. All these circumstances lead to the conclusion that the Respondent is being using the disputed domain name in bad faith.

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

1. Confusing similarity

It is well accepted that the first element functions primarily as a standing requirement. The standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.7.

The Complainant is the owner of the trademark 1XBET. The disputed domain name incorporates the trademark 1XBET, placed between the prefix "promo-" and the suffix "-az". The addition of the descriptive prefix and suffix cannot prevent a finding of confusing similarity as the Complainant's mark is clearly recognizable within the disputed domain name. 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. See Section 1.8 of the WIPO Overview 3.0.

Accordingly, the Panel finds that the first element of the Policy has been established.

2. Rights or Legitimate Interests

As also confirmed in the WIPO Overview, a complainant is required to make out a prima facie case that the respondent lacks rights or legitimate interests. Once such prima facie case is made, the burden of production shifts to the respondent to come forward with appropriate allegations or evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such appropriate allegations or evidence, a complainant is generally deemed to have satisfied paragraph 4(a)(ii) of the UDRP.

The Complainant does not appear to have any relationship with the Respondent and never authorized the Respondent to make use of the Complainant's 1XBET trademark in any manner, including as part of the disputed domain name. Nothing in the case file shows that the Respondent is commonly known by the disputed domain name. The disputed domain name incorporates the trademark 1XBET together with two descriptive words. One, "promo," is used as a prefix and followed by a hyphen, and the other, "az," is used as a suffix and anticipated by a hyphen. Thus, the 1XBET mark is separated from the remaining word elements of the disputed domain name by two hyphens, making the mark highly visible to Internet users. Therefore, Internet users searching for the Complainant may believe that the disputed domain name belongs to the Complainant rather than to an unrelated third party.

The disputed domain name does not resolve to an active website. Accordingly, before any notice of the dispute, the Respondent was not using or making demonstrable preparations to use, the disputed domain name in connection with a bona fide offering of goods or services. Likewise, the Respondent was not making a legitimate noncommercial or fair use of the disputed domain name.

In light of the foregoing, the Panel is satisfied that the Complainant has made a prima facie case of the lack of the Respondent's rights or legitimate interests in the disputed domain name. The burden now shifts to the Respondent to put forward appropriate arguments and evidence to show that it owns such rights or legitimate interests. However, the Respondent failed to file a Response in these UDRP proceedings.

Hence, the Panel finds that the Complainant has satisfied the second element of the Policy.

3. Bad Faith

As far as bad faith is concerned, the Panel notes that the Complainant contends that its 1XBET mark enjoys reputation. The Panel notes that the Complainant and its 1XBET platform have obtained significant recognitions and awards. Moreover, the Complainant with its 1XBET mark is a trusted sponsor of important football tournaments and signed sponsorship agreements with internationally renowned football teams. The 1XBET platform is used internationally since almost ten years and is translated in various languages. Previous UDRP panelists have affirmed that the 1XBET mark enjoys reputation (see, amongst others, CAC-UDRP-106879, Navasard Limited vs. Andrey Skalev; CAC-UDRP-106860, Navasard Limited vs. Dmitrii Sofronov; CAC-UDRP-106483, Navasard Limited vs. bas astana xandino ahmata leleman). Accordingly, the Panel is inclined to believe that the 1XBET mark is renown in its relevant field of business. In light of this reputation and of the composition of the disputed domain name, which emphasizes the visibility of the Complainant's mark, the Panel finds that the Respondent was aware of the Complainant's mark at the time of registration of the disputed domain name. The registration of a domain name incorporating a third party's well-known trademark, being aware of such mark and without rights or legitimate interests, amounts to registration in bad faith.

As far as use in bad faith is concerned, the Panel notes that the disputed domain name does not resolve to an active website. However, passive holding of a domain name cannot prevent a finding of bad faith under the doctrine of passive holding. Factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put. See section 3.3 of the WIPO Overview 3.0.

As mentioned previously, the Complainant's mark enjoys reputation in its specific field. Moreover, the Respondent failed to submit a Response and to provide evidence of actual or contemplated good-faith use. Furthermore, the Respondent concealed its identity when it registered the disputed domain name. Finally, considering that the Complainant's mark is used to distinguish an online betting platform, a field of application that is particularly exposed to risks and is therefore strictly regulated, any good faith use of the disputed domain name by an unauthorized third party is implausible.

In light of the foregoing, the Panel finds that also the third and last condition of the Policy has been satisfied

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **promo-1xbet-az.com**: Transferred

PANELLISTS

Name	**Angelica Lodigiani**

DATE OF PANEL DECISION 2024-11-19

Publish the Decision