Decision for dispute CAC-UDRP-106923

Case number	CAC-UDRP-106923
Time of filing	2024-10-14 09:24:38
Domain names	1xbet.ml

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Navasard Limited

Complainant representative

Organization	Sindelka & Lachmannová advokáti s.r.o.

Respondent

Name	Boubacar YATTASSAYE

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 states that it is the owner, among others, of the following trademark registrations:

- EUTM “1XBET” No. 013914254, registered on 27 July 2015, for services in class 41;
- International figurative trademark “1XBET” No. 1672896, registered on 6 April 2022 in several countries including OAPI (“The Organisation Africaine de la Propriété Intellectuelle”), of which Mali is a member country, for services in classes 41, 42.

The Complainant proved Its ownership of the “1XBET” international trademark No. 1672896 by the submitted extract from the WIPO Madrid database.

The Complainant further submitted an extract from the EUIPO database proving the registration of the “1XBET” EUTM No. 014227681, registered on 21 September 2015, for services in classes 35, 41, 42. This extract is different from the EUTM No. 013914254 expressly mentioned in the Complaint.

Evidence of the Complainant’s ownership of the “1XBET” international figurative trademark can support the Complainant’s claim. However, the submitted extract from the EUIPO for the “1XBET” EUTM No. 014227681 and the Panel’s own research in the EUIPO eSearch database for the “1XBET” EUTM No. 013914254 sufficiently supports the finding of the Complainant’s rights in the “1XBET” mark.

FACTUAL BACKGROUND

“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” 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´s partner of Spain´s La Liga and is the sponsor of a 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. “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 disputed domain name <1xbet.ml> (hereinafter “disputed domain name”) was registered on 8 September 2023. According to the Registrar, the Respondent is ‘Boubacar YATTASSAYE’. The Respondent’s provided address as being at Bamako, Mali.

PARTIES CONTENTIONS

1. COMPLAINANT:

The Complainant contends that the requirements of the UDRP have been met and that the disputed domain name should be transferred to it.

1. RESPONDENT:

The Respondent has filed a Response to the Complaint.

The Respondent claims that the disputed domain name was registered and is used in good faith. The Respondent’s intention is not to create confusion or infringe on trademark rights but rather to provide local access to services associated with “1XBET” for Malian users (to promote the brand and facilitate access for bettors to the official “1XBET” site in Mali <ml.1x001.com>).

The Respondent adds that He purchased the local domain name <1xbet.ml> to enhance the credibility of the brand in Mali and inform bettors about new mobile payment methods.

According to the Respondent, the content of the website under the disputed domain name was not created by Him. The local domain associated with the brand in Mali is <ml.1x001.com>, which is difficult to find on search engines. The Respondent then acquired the disputed domain name with the aim of redirecting bettors to the official brand site, and not for profit-making purposes.

The Respondent did not have direct contact with bettors and has not created professional email addresses. The Respondent’s sole objective is to redirect users to the official site using only the contact information provided by the brand (https://ml.1x001.com/fr/information/contacts).

The Respondent has also worked to improve local search engine optimization and conducted promotional campaigns to promote the brand.

The Respondent questioned the authorization of the Complainant’s representative.

Furthermore, the Respondent claims that is a partner in the “1XBET” affiliate program.

The Respondent declared that He is refusing the transfer of the disputed domain name.

The Respondent wishes to propose a partnership with the Complainant regarding the disputed domain name. Unfortunately, the Respondent’s attempts to contact the Complainant to establish a fruitful collaboration have been unsuccessful.

The Respondent concludes that has not sought to profit from the Complainant’s reputation but rather to support its image and values. Therefore, the Respondent requests that the transfer request made by the Complainant is to be denied.

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 UDRP).

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 UDRP).

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 UDRP).

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

Firstly, the Panel concludes that according to the Registrar's "Guidelines for Uniform Dispute Resolution for dot ml (.ml) Domain Names or Registry Dispute Resolution Policy" submitted by the Complainant, the Panel has the jurisdiction to decide the dispute under the UDRP.

Secondly, in order to preserve the equality of both parties, the Panel has decided, at its discretion under Paragraph 11 of the UDRP Rules, that the proceeding will be conducted in English, which is not an official language of either party's country. This decision is supported by the fact that from the submitted materials, it is apparent that both parties understand English, and the content of the website under the disputed domain name is mostly in English and operates with globally accessible services of the Complainant.

1. CONFUSING SIMILARITY

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks.

The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (hereinafter "The WIPO Overview 3.0") in Paragraph 1.2.1 states: "Where the complainant holds a nationally or regionally registered trademark or service mark, this prima facie satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case".

The WIPO Overview 3.0 in Paragraph 1.7 states: "[…] in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

In the CAC Case No. 103897, Skechers U.S.A., Inc. II v. Liubov Meisner, the panel stated that: "the addition of the country code TLD 'co.no' does not change the overall impression of the designation as being connected to the trademark SKECHERS of the Complainant. It does not prevent the likelihood of confusion between the disputed domain names and the Complainant, its trademark and its domain names associated."

In the present case, the Complainant has established that it owns international and EUTM trademark registrations consisting of the "1XBET" element, protected for the classes in connection with (online) betting (proved by the submitted extracts from the WIPO Madrid and EUIPO databases).

The disputed domain name <1xbet.ml> contains the Complainant's trademark in its entirety. The addition of the country code TLD (ccTLD) ".ml" does not prevent the finding of confusing similarity.

Therefore, the disputed domain name is considered to be confusingly similar to the relevant trademark.

As a result, the Panel finds that the Complainant has satisfied Paragraph 4(a)(i) of the UDRP.

2. THE RESPONDENT´S LACK OF RIGHTS OR LEGITIMATE INTERESTS IN THE DISPUTED DOMAIN NAME

The Panel finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to Paragraph 4(a)(ii) of the UDRP, the Complainant shall make a case that the Respondent lacks rights and legitimate interests in the disputed domain name. If the Complainant fulfils this demand the burden of proof shifts to the Respondent and so the Respondent shall demonstrate rights or legitimate interests in the disputed domain name. If the Respondent fails to prove its rights or legitimate interests, it is assumed that the Complainant satisfied the element of Paragraph 4(a)(ii) of the UDRP (see CAC Case No. 102430, Lesaffre et Compagnie v. Tims Dozman). Moreover, past panels were of the view that it is difficult or sometimes impossible to prove negative facts, i.e., absence of rights or legitimate interest on the part of the Respondent. In this respect, past panels referred to the WIPO Case No. D2000-1769, Neusiedler Aktiengesellschaft v. Vinayak Kulkarni. Within the meaning of

Paragraph 4(a)(ii) of the UDRP, once the complainant has made something credible (prima facie evidence), the burden of proof shifts to the Respondent to show that he has rights or legitimate interests in the domain name at issue by providing concrete evidence.

The WIPO Overview 3.0 in Paragraph 2.5.1 states: “Generally speaking, UDRP panels have found that domain names identical to a complainant’s trademark carry a high risk of implied affiliation.“

The WIPO Overview 3.0 in Paragraph 2.5.3 states: “In the broadest terms, while panels will weigh a range of case-specific factors such as those listed above in section 2.5.2, judging whether a respondent’s use of a domain name constitutes a legitimate fair use will often hinge on whether the corresponding website content prima facie supports the claimed purpose (e.g., for referential use, commentary, criticism, praise, or parody), is not misleading as to source or sponsorship, and is not a pretext for tarnishment or commercial gain. [...] Similarly, a respondent’s use of a complainant’s mark to redirect users (e.g., to a competing site) would not support a claim to rights or legitimate interests.”

In the present case, the Complainant claims that it did not license or authorize the Respondent to register or use the disputed domain name, nor is the Respondent affiliated with the Complainant in any form.

The Complainant’s trademark “1XBET” is wholly incorporated in the disputed domain name. Therefore, the Complainant asserts that the Respondent’s intention is to create an association and a subsequent likelihood of confusion, with the Complainant, its “1XBET” trademarks, and its business conducted under the same name, in the Internet user’s mind. By reading the disputed domain name, incorporating the “1XBET” trademark, Internet users may be falsely led to believe that the disputed domain name is directly connected, authorized by or endorsed by the Complainant. However, it is not the case. The website associated with the disputed domain name has not been authorized or approved by the Complainant.

By the submitted screenshots of the website under the disputed domain name and of the other websites, the Complainant evidenced that after confirming the user’s age (21 years) on the main page associated with the disputed domain name <1xbet.ml>, the user is redirected to several other websites (e.g., <ml.1x001.com>, <1xlite-81734.top>, <new-1xbet.com>. Moreover, the content of the website associated with the disputed domain name is, according to the Complainant, intended to imply a direct association with Complainant and its “1XBET” trademarks. As explained above, the website associated with the disputed domain name prominently and repeatedly quotes the “1XBET” word and figurative trademark. In addition, the website does not identify the person operating the website and its relationship to the Complainant.

The Complainant adds that the disputed domain name resolves, as of 8 October 2024, to a live website that impersonates and pass themselves off as the Complainant. This website prominently displays the “1XBET” trademarks in various locations. This website also gives the false impression that it is the official local (Mali) website of the Complainant, which is not the case. This is mainly due to the use of the country name in the disputed domain name itself. On this basis, the Complainant alleges that the Respondent is using the disputed domain name and the website to engage in illegal activities, in particular to impersonate the Complainant and/or to pass off its services as those of the Complainant. This is further supported by the fact that the Respondent has improperly concealed its identity in order to avoid being contacted, and the Infringing Website does not disclose the absence or nature of the relationship between the Complainant and the Respondent.

To the satisfaction of the Panel, the Complainant made a case that the Respondent lacks rights and legitimate interests in the disputed domain name. Therefore, the burden of proof shifts to the Respondent.

The Respondent claims that He registered the disputed domain name in good faith. The Respondent’s intention is not to create confusion or infringe on trademark rights but rather to provide local access to services associated with “1XBET” for Malian users.

Further, the Respondent claims that the content of the website under the disputed domain name was not created by Him. The local domain associated with the Complainant’s brand in Mali is <ml.1x001.com> and He acquired disputed domain name with the aim of redirecting bettors to the official brand site, and not for profit-making purposes.

The Respondent summarized that His goal in using the disputed domain name is to promote the “1XBET” brand and refuses to transfer the disputed domain name to the Complainant.

To support His claims, the Respondent submitted the screenshot of the website under the disputed domain name and of the Complainant’s official website in Mali and Data of Local Referencing from “Best Web Traffic”.

Firstly, the Complainant proved its ownership of international and EUTM trademark registration over the “1XBET” sign (see above). As has been already stated, the disputed domain name is confusingly similar to the Complainant’s “1XBET” trademark, which is incorporated in the disputed domain name in its entirety. The addition of “.ml” ccTLD does not change the overall impression. By that, the Respondent is creating a likelihood of confusion and misleading the consumers.

The Complainant sufficiently evidenced that the Respondent is not connected to the Complainant in any way. And there is no evidence that would lead to the conclusion that the Respondent is known by the disputed domain name.

Secondly, although the Respondent claims that His intention is to promote the Complainant in good faith and not for profit-making purposes, such a claim was not supported by the evidence materials submitted by the Respondent.

From the submitted screenshot of the website under the disputed domain name and of the Complainant’s official website in Mali, it is clear that there is no identification of the Respondent. In addition to that, there is no information for Internet users regarding the affiliation or redirection to the Complainant’s official website. The Respondent’s claim that He is a partner in the “1XBET” affiliate

program was rejected by the Complainant since the conditions of this program restrict partners from registering the domain names consisting of the Complainant's trademarks.

Finally, the content of the website, including the display of the Complainant's trademark might give a false impression that it is the official website of the Complainant in Mali. Therefore, the likelihood of confusion was not sufficiently minimized by the Respondent and the disputed domain name might be misleading as to the source or sponsorship.

Past panels have declared that the act of redirecting Internet users cannot support a claim to rights or legitimate interests.

Under such circumstances, the Panel cannot find any legitimate, non-commercial or fair use rights or interests of the Respondent in the disputed domain name.

Therefore, the Panel finds that the Complainant has satisfied the requirement under Paragraph 4(a)(ii) of the UDRP.

3. THE REGISTRATION AND USE OF THE DISPUTED DOMAIN NAME IN BAD FAITH

The Panel finds that the Respondent registered and used the disputed domain name in bad faith.

The WIPO Overview 3.0 in Paragraph 3.1.4 states: "Panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. Panels have moreover found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant's mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent's commercial benefit, even if unsuccessful, (iii) the lack of a respondent's own rights to or legitimate interests in a domain name, (iv) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer, (v) redirecting the domain name to the complainant's (or a competitor's) website, and (vi) absence of any conceivable good faith use. Similarly, panels have found that a respondent redirecting a domain name to the complainant's website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant."

In the WIPO Case No. D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC, panel stated: "In that circumstance, whether the commercial gain from misled Internet users is gained by the Respondent or by the Registrar (or by another third party), it remains that the Respondent controls and cannot (absent some special circumstance) disclaim responsibility for, the content appearing on the website to which the disputed domain name resolve […] so the Panel presumes that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, affiliation, or endorsement of the Respondent's website to which the disputed domain name resolves. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith."

In the present case, the Complainant has established that it owns international and EUTM trademark registrations consisting of the "1XBET" verbal element, protected for classes in connection with (online) betting, with the priority right since 2015 (evidenced by the submitted extracts from the WIPO Madrid and EUIPO databases).

The disputed domain name <1xbet.ml> contains the Complainant's trademark in its entirety. The addition of the ".ml" ccTLD does not change the overall impression of the disputed domain name.

From the materials furnished by the Complainant (showing an award for best betting site, partnerships with famous football clubs and various sports events), it is clear that the Complainant and Its "1XBET" trademark has a certain reputation among the (online) betting business.

A simple Google search for "1xbet" leads Internet users to the Complainant's website and websites connected to the Complainant's products and services (evidenced by the submitted screenshot of a Google search).

Therefore, the disputed domain name is confusingly similar to the highly distinctive and widely recognized earlier trademark of the Complainant.

It is undisputed that the Respondent was aware of the Complainant's trademarks and Its reputation before the registration of the disputed domain name on 8 September 2023.

The contentions of both parties were discussed above and no rights or legitimate interest of the Respondent was found. For the purpose of the bad faith assessment, the Panel refers to the considerations already made.

In the circumstances of this case, the Panel considers the redirection of Internet users to the Complainant's local website and the lack of communication about the disputed domain name being an unofficial website as key arguments for finding bad faith on the part of the Respondent.

As was proved by the submitted screenshot of the website under the disputed domain name, the website displays the Complainant's trademarks and there is no clue that would lead Internet users to understand that the disputed domain name <1xbet.ml> is not affiliated with the Complainant in any way.

The Respondent claims that His intention was not to confuse. However, He has taken no action to prevent the confusion.

If the Respondent claims that He uses the disputed domain name to redirect Internet users to the Complainant's official local website, the act of redirecting might, as past panels have declared, create a real or implied ongoing threat to the Complainant.

Moreover, the Respondent did not provide sufficient evidence to prove that He is not using the disputed domain name for profit-making activities.

Thus, it might be concluded that the Respondent did not register and is not using the disputed domain name in good faith.

Following the above-mentioned, the Panel finds that the Complainant has satisfied conditions pursuant to Paragraph 4(a)(iii) of the UDRP.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **1xbet.ml** : Transferred

PANELLISTS

Name	**Radim Charvát**

DATE OF PANEL DECISION 2024-12-06

Publish the Decision