

Decision for dispute CAC-UDRP-107040

Case number	CAC-UDRP-107040
Time of filing	2024-11-14 10:16:48
Domain names	download1xbetandroid.com, download-1xbet.com

Case administrator

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

Organization	NAVASARD LIMITED
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Complainant representative

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

Name	Artem Hanskiy
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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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the 1XBET trademark and is a member of a group of companies operating the 1xBET online gaming platform. The following registrations are within the Complainant's portfolio of registrations for the 1XBET mark:

European Union trademark No. 14227681 1XBET (word) registered on September 21, 2015 for services in international classes 35, 41, 42;

European Union figurative trademark 017517327 1XBET registered on March 7, 2018 for services in international classes 41 and 42;

European Union figurative trademark 017517384 1XBET registered on March 7, 2018 for services in international classes 41 and 42.

The Complainant, as the proprietor of the 1xBET Internet platform as an extensive Internet presence for which it owns and uses its domain name <1xbet.com>.

FACTUAL BACKGROUND

The Complainant, as the proprietor of the 1xBET Internet platform as an extensive Internet presence for which it owns and uses its domain name <1xbet.com>.

The disputed domain names <download-1xbet.com> and <download1xbetandroid.com> were both registered on October 11, 2020; and they resolve to websites which are almost identical, albeit the former is in the French language and the latter is in the English language, and each purports to mimic the Complainant's website at www.1xbet.com.

There is no information available about the Respondent except for that provided in the Complaint, the Registrar's WhoIs and the information provided by the Registrar in response to the request by the Centre for details of the registration of the disputed domain names for the purposes of this proceeding. The Respondent availed of a privacy service to conceal his identity on the published WhoIs.

PARTIES CONTENTIONS

The Complainant

The Complainant submits that it 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.

In support of submission the Complainant has provided evidence in the form of copy online news reports that in July 2019, FC Barcelona announced that it had signed a partnership with 1xBet, naming the company as the team's new global partner; also in 2019, 1xBET became the FC Liverpool's official global betting partner; and during May 2022, esports organisation OG Esports announced that the company had signed a sponsorship deal with Complainant which names Complainant as OG Esport's official betting sponsor.

The Complainant firstly alleges that the disputed domain names are confusingly similar to the Complainant's 1XBET trademarks, because they each fully incorporate the Complainant's registered and well-known mark.

The Complainant adds the descriptive terms "download" and "android" within the disputed domain names do not prevent a finding of confusing similarity with the mark under the first element of the test in Policy paragraph (4), because these terms would likely be understood as indicating the purpose or function of the disputed domain names, specifically relate to downloading the Complainant's mobile application on Android devices.

Similarly, it is submitted, the presence of the generic Top-Level Domain ("gTLD") <.com> extension in the first level portion of the disputed domain names is a standard registration requirement and may be disregarded when assessing whether a domain name at issue is confusingly similar to the trademark in which the Complainant has rights.

Secondly the Complainant alleges that the Respondent has no rights or legitimate interests in the disputed domain name arguing that:

- the disputed domain names <download1xbetandroid.com> and <download-1xbet.com> were both registered on the same date, October 11, 2020 many years after the first registrations of the Complainant's 1XBET trademark;
- the Complainant has not licensed or authorised the Respondent to register or use the disputed domain names, nor is the Respondent affiliated in any way with the Complainant;
- there is no evidence that the Respondent is known by the disputed domain names or owns any corresponding registered trademarks;
- there is no evidence that Respondent has been using, or preparing to use, the disputed domain names in connection with a *bona fide* offering of goods and services, or making a legitimate non-commercial or fair use of the disputed domain names;
- the structure of each of the disputed domain names, incorporating in its second level portion the 1XBET trademark in combination with the terms "download" and "android" reflects the Respondent's intention to create an association, and a subsequent likelihood of confusion, with the Complainant, its 1XBET trademarks, and its business in the minds of Internet users;
- by reading the disputed domain names, each incorporating the 1XBET trademark and descriptive terms indicating the purpose or function of the respective domain name, Internet users may be falsely led to believe that the disputed domain names are directly connected to, authorized by or endorsed by the Complainant, which is however not the case.

Referring to websites to which the disputed domain names resolve which are exhibited in an annex to the Complaint, the Complainant further argues that:

- the resolving websites have not been authorized or approved by the Complainant;
- in accordance with previous UDRP Panel decisions and as indicated in the WIPO Jurisprudential Overview 3.0, section 2.5, "a respondent's use of a domain name will not be considered 'fair' if it falsely suggests affiliation with the trademark owner";
- the content of the exhibited websites show that the Respondent has aimed at making Internet users believe that the disputed domain names are directly linked to, or operated by, the Complainant;
- the website at to which the disputed domain name <download1xbetandroid.com> is in French and the disputed domain name <download-1xbet.com> resolves to a website in the English language; in each case the exhibited websites have identical content to that on the Complainant's platform differentiated only in the language used, and the nature of the disputed domain name carries a risk of implied affiliation with the Complainant;
- on each of the exhibited websites, the Complainant's 1XBET figurative and word marks are prominently repeated;
- furthermore, the Respondent's websites do not identify the person operating the websites or their relationship to the Complainant. On the contrary, the very wording of the disputed domain name suggests an affiliation with the Complainant.

Thirdly the Complainant submits that the disputed domain names were registered and are being used in bad faith, arguing that the Respondent registered the disputed domain names October 11, 2020, many years after the first registrations of the Complainant's

1XBET trademark in 2015.

Moreover, the Complainant has an online gambling and betting company with the extensive presence online. It is very active online through its official website promoting its 1xBET mark brand and services.

As shown in a copy of a search carried out on the Google platform which is exhibited in an annex to the Complaint, 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 structure of the disputed domain names show that the Respondent registered them with the Complainant and its trademarks in mind. The Complainant repeats that the registration of the disputed domain names, which each contain the Complainant's well-known trademark 1XBET in their second level portion was intended to create a direct association with the Complainant's 1xBET group of companies, the Complainant's 1XBET trademarks, and the Complainant's own domain name <1xbet.com>.

The terms "download" or "android" within the disputed domain names suggest affiliation with the Complainant and its mobile application.

The websites to which the disputed domain names resolve repeatedly displaying the 1XBET trademark are aimed at mimicking the Complainant's official website at "1xbet.com".

This reference to the 1XBET trademark aims at attracting the Internet users' attention and infer that the website is affiliated to the Complainant, which is not the case. Such use of the disputed domain names creates a likelihood of confusion in Internet users' mind and may lead them to attempt contacting the person operating the website to use and/or purchase services.

Thus, the use of the disputed domain name might generate revenues for the Respondent. Such gain would be unfairly obtained: the Respondent may sell services unrelated to 1XBET services, by capitalizing on the fame of the Complainant and its 1XBET trademark.

The evidence shows that the Respondent registered and uses the disputed domain names 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.

The Respondent

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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

Confusing Similarity

The Complainant has provided uncontested convincing evidence of its rights in the 1XBET trademark established the ownership of the

abovementioned portfolio of service mark registrations described above and extensive use of the mark on its 1XBET platform providing gaming services.

The disputed domain names <download-1xbet.com> and <download1xbetandroid.com> are each composed of the Complainant's 1XBET, in combination with the generic term "download".

There are also additional non-distinctive terms. In the former case there are a hyphen added and in the latter case there is the additional term "android". Both have the generic Top-Level Domain ("gTLD") extension <.com>.

Each of the disputed domain names contains Complainant's mark in its entirety, and it is well established that it is sufficient for a complainant to establish that the domain name at issue contains the mark relied upon in its entirety, to satisfy the first element of the test in Policy paragraph 4(a)(i).

The gTLD extension <.com> within the disputed domain names may be ignored for the purposes of comparing the mark and the disputed domain name, because it would be considered by Internet users to be a necessary technical element for a domain name.

This Panel finds therefore that the disputed domain name is confusingly similar to the 1XBET trademark mark in which Complainant has rights and Complainants have therefore succeeded in the first element of the test in Policy paragraph 4(a)(i).

Rights and Legitimate Interests

The Complainant has made out a *prima facie* case that the Respondent has no rights legitimate interests in the disputed domain names as set out in Complainant's detailed submissions above, supported by the evidence which has been annexed to the Complaint, as amended.

It is well established that once a complainant makes out a *prima facie* case that a respondent has no rights or legitimate interests in the domain name at issue, the burden of production shifts to the respondent to prove its rights or legitimate interests.

The Respondent has failed to discharge that burden and therefore this Panel must find that the Respondent has no rights or legitimate interests in the disputed domain names.

The Complainant has therefore succeeded in the second element of the test in Policy paragraph 4(a)(ii).

The Complainant's registered service mark 1xBET is the only distinctive element within each of the disputed domain names. The disputed domain names were each registered on October 11, 2020, many years after the first registrations of the Complainant's 1XBET trademark in 2015.

In its supporting submissions and the evidence adduced in the annexes to the Complaint, Complainant provides extensive details of the commercial reputation of its 1XBET gaming platform and co-promotion with famous football clubs.

On the balance of probabilities, therefore, this Panel finds that the disputed domain name was in fact chosen and registered in bad faith with Complainant's mark in mind with the intention of taking predatory advantage of Complainant's business and its rights and goodwill in the 1xBET mark.

The uncontested evidence in the form of the screen capture of the content of the websites to which the disputed domain names resolve confirms this conclusion.

The exhibited screen captures of the websites to which the disputed domain names resolve show that Respondent is purporting to impersonate the Complainant and to create the impression that the Respondent's websites are in fact those of the Complainant or associated with, or authorised by the Complainant. While one of the websites is in the English language and the other is in the French language, they are almost identical, and clearly owned and managed by the same person.

It is of great concern that the Respondent, while impersonating the Complainant and purporting to claim that Internet users visiting Respondent's websites are in fact visiting Complainant's official site because the Respondent's websites invite the Internet user to download apps for the Complainant's platform.

This Panel is satisfied, and finds, that the Respondent is using the disputed domain name in bad faith intending to attract and confuse Internet users and cause them to divert their Internet traffic intended for Complainant and misdirect it to the Respondent's website by creating confusion as to the source, sponsorship, affiliation, or endorsement of the Respondent's web sites, which constitutes use in bad faith for the purposes of the Policy.

As this Panel has found that the disputed domain names were each registered and are being used in bad faith, the Complainant has succeeded in the third element of the test in Policy paragraph 4(a)(iii).

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

- 1. **download1xbetandroid.com**: Transferred
- 2. **download-1xbet.com**: Transferred

PANELLISTS

Name **James Bridgeman**

DATE OF PANEL DECISION 2024-12-14

Publish the Decision