Decision for dispute CAC-UDRP-107245

Case number	**CAC-UDRP-107245**
Time of filing	**2025-01-20 10:24:43**
Domain names	**melbetagent.com**

Case administrator

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

Complainant

Organization	**Batnesto Ltd.**

Complainant representative

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

Respondent

Name	**Kory Lattrell**

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 registered owner of many trademark registrations consisting and/or containing the term “MELBET” worldwide, e.g. Burundian trademark registration no. 10242/BI, filed on **9/11/2022** and registered on **15/11/2022** for services in classes 35, 41 and 42; Peruvian trademark registration no. S00149219, filed on 08/06/2023 and registered on 10/08/2023 for services in class 41; European Union trademark registration no. 019060714 MELBET, filed on 29/07/2024 and registered on 09/11/2024 for goods in classes 9, 16, 21, 25, 28, 30.

FACTUAL BACKGROUND

It results from the Complainant’s undisputed allegations that the Complainant is the holder of the domain name < melbet.com > (registered on 18/10/2012) through which an online gaming and casino platform named Melbet is operated by a third party (i.e. Pelican Entertainment” B.V.) with the Complainant’s permission. In addition, the undisputed evidence provided by the Complainant proves that the casino platform has been operating since 2012 with over 400.000 daily users worldwide. Melbet has actively sponsored a variety of sporting events worldwide and has gained several brand ambassadors amongst athletes and teams in different sports and regularly participates in major industry conferences, such as SiGMA and the SBC Awards, enhancing its visibility and attracting industry attention (e.g. in 2020, Melbet received four nominations at the SBC Awards, including Best Mobile App, Best Affiliate Program, and Rising Star in the sports betting and casino categories).

The Complainant further contends its trademark MELBET be distinctive and well-known.

The disputed domain name was registered on 28/10/2022.

Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolves to a website prominently displaying the MELBET trademark and logo without Complainant's approval/authorization and that purportedly offers the possibility to become a representative and earn online as Complainant's agent. In the contact details session reference is prominently made to the Complainant's domain name <melbet.com>.

PARTIES CONTENTIONS

The Complainant contends that the requirements of the Policy have been met and that the disputed domain name should be transferred to it.
No administratively compliant Response has been filed.

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. Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark, and that the disputed domain name is identical or confusingly similar to a trademark in which the complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of various MELBET trademarks.

Prior UDRP panels have found that a disputed domain name is confusingly similar to a complainant's trademark where the disputed domain name incorporates the complainant's trademark in its entirety (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0") at section 1.7. This Panel shares this view and notes that the Complainant's registered trademark MELBET is fully included in the disputed domain name.

Furthermore, it is the view of this Panel that the addition of the term "agent" in the disputed domain name at issue cannot prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark since the Complainant's trademark is clearly recognizable in the disputed domain name (see WIPO Overview 3.0 at section 1.8).

Finally, the generic Top-Level Domain ("gTLD") (i.e. ".com") of the disputed domain name is typically disregarded under the first element confusing similarity test (see WIPO Overview 3.0 at section 1.11.1).

In the light of the above, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the

Complainant has rights.

2. Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name.

In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a prima facie case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain name.

According to the Complaint, which has remained unchallenged, the Complainant has no relationship in any way with the Respondent and did, in particular, not authorize the Respondent's use of the Complainant's trademark e.g. by registering the disputed domain name. Furthermore, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain name in the sense of paragraph 4(c)(ii) of the Policy.

Moreover, the Panel notes that the disputed domain name is clearly constituted by the Complainant's registered trademark and the term "agent", which per se tends to suggest sponsorship or endorsement by the Complainant. The Panel finds it most likely that the Respondent selected the disputed domain name with the intent to attract Internet users for commercial gain. This is also confirmed by the content of the website to which the disputed domain name resolves, allegedly offering the possibility to become a representative and earn online as Complainant's agent, displaying without authorization the Complainant's trademark and logo.

Further, the Panel also notes that the website to which the disputed domain name resolves does not display any accurate and prominent disclaimer regarding the lack of the relationship between the Complainant and the Respondent. On the contrary, in the contact details' session reference is prominently made to the Complainant's domain name <melbet.com>.

It is acknowledged that once the Panel finds a prima facie case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see WIPO Overview 3.0 at section 2.1). Since the Respondent in the case at hand failed to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain name.

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

3. According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain name has been registered and is being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain name's registration and use in bad faith.

In the case at issue, the disputed domain name was registered before the Complainant's trademark. Usually, where a respondent registers a domain name before the complainant's trademark rights accrue, panels will not normally find bad faith on the part of the respondent.

However, as an exception to this general proposition, in the Panel's view the Respondent has acted in bad faith in the present case. The Panel notes that the facts of the case – not contested by the Respondent – establish that the Respondent's intent in registering the disputed domain name was to unfairly capitalize on the Complainant's nascent (typically as yet unregistered) trademark rights (see WIPO Overview 3.0 at section 3.8.2): the disputed domain name was registered shortly before the registration of Complainant's MELBET first trademark (i.e. circa two weeks before the Burundian trademark registration) and roughly ten years after the launching of the Melbet online gaming and casino platform available under www.melbet.com (i.e. the Complainant's domain name was registered on 18/10/2012). In fact, the Melbet casino platform has been operating since 2012 with over 400.000 daily users worldwide, sponsoring a variety of sporting events worldwide, gaining several brand ambassadors amongst athletes and teams in different sports, regularly participating in major industry conferences. On this regard, the undisputed evidence provided by the Complainant proves that Melbet received four nominations at the SBC Awards in the sports betting and casino categories already in 2020 (i.e. two years before the disputed domain name was registered).

Finally, the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith (see WIPO Overview 3.0 at section 3.2.1):

(i) the nature of the disputed domain name (i.e., incorporating the Complainant's mark plus the addition of term which per se tends to suggest sponsorship or endorsement by the Complainant);

(ii) the content of any website to which the domain name directs. In the case at issue, the undisputed evidence provided by the Complainant proves that the disputed domain name resolves to a website prominently displaying the Complainant's trademark and logo without Complainant's approval/authorization and purportedly offering the possibility to become a representative and earn online as Complainant's agent.

(iii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent¨s choice of the disputed domain name; and

(iv) the Respondent concealing its identity through a privacy service.

In light of the above the Panel finds that the disputed domain name has been registered and is being used in bad faith pursuant to paragraph 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. **melbetagent.com** : Transferred

PANELLISTS

Name	**Dr. Federica Togo**

DATE OF PANEL DECISION 2025-02-28

Publish the Decision