Decision for dispute CAC-UDRP-107788

Case number	CAC-UDRP-107788
Time of filing	2025-07-31 12:28:42
Domain names	মেলবেট.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	Artem Melnichenko

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings that are pending or decided and that relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant owns, among many others, the following trademark rights:

Registered:

- Ugandan trademark for MELBET (and design), Reg. No. 2020/067008, registered on July 22, 2020, in force until January 8, 2027; in International Class ("IC") 41;

- Mauritian trademark for MELBET (and design), Reg. No. 34042/2023, registered on November 9, 2022, in force until November 9, 2032; in ICs 35, 41, and 42; and

- European trademark for MERLBET (word mark), Reg. No. 019060714, registered on November 9, 2024, in force until July 29, 2034, in ICs 9, 16, 21, 25, 28, and 30.

The Complainant alleges common law trademark rights over the term MELBET for online betting and casino services (IC 41).

FACTUAL BACKGROUND

The Complainant is an online gambling and casino company registered in accordance with the laws of the Republic of Cyprus, which operates through its website and App by Pelican Entertainment B.V. as a licensee holder of the Curaçao eGaming License. The Complainant owns the domain name <melbet.com>, registered in 2012.

The Complainant asserts that it has over 400,000 daily users worldwide and that the sportsbook includes over 1,000 daily events. According to the Complainant's website 'www.melbet.com', it has 12 years of successful work, 800,000 customers, and is active in 130 countries.

The Complainant, under its trademark MELBET, sponsors football players, or sports teams, as Juventus, in the Middle East regions and MENA; also partners with La Liga and participates in several reputed industry congresses as AffPapa iGames, SiGMA, and SBC Awards. In 2024, MELBET (Affiliates) was recognized as "Live Casino of the Year 2024" by AffPapa iGames Awards.

According to the CAC Registrar Verification Response, the disputed domain name <মলেবট.com> (an IDN with the Punycode translation of <xn--z5bzfq8hc.com>) was registered (by the current registrant) on May 13, 2023. The disputed domain name resolves to an active website for online sports gaming and gambling activities, which mimics the Complainant.

PARTIES CONTENTIONS

Response

The Respondent has submitted no Response or any communication. Nothing is known about the activities of the Respondent. However, the Complainant must establish the three elements of paragraph 4(a) of the Policy (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), section 4.3.)

Therefore, this Panel shall analyze the evidence submitted by the Complainant and decide this dispute under the "balance of probabilities" or "preponderance of the evidence" standard (see paragraphs 14 and 15(a) of the Rules, and WIPO Overview 3.0, section 4.2.)

Complainant Contentions (summary):

The Complainant contends that the disputed domain name is composed of characters from the Bengali (Bangla) script, which is used for the Bengali language, primarily spoken in Bangladesh and parts of India (especially West Bengal) is confusingly similar to the MELBET trademark; that the disputed domain name represents a direct transliteration of the Complainant's trademark into the Bengali script.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, given that it is not commonly known by the disputed domain name; that the disputed domain name was registered on May 6, 2022, after the filing and registration date of the Ugandan trademark registration No. 2020/067008, i.e.: January 8, 2020; and/or that the disputed name was registered nearly a decade after the MELBET mark had been in continuous commercial use since 2012, meaning, after the Complainant had already acquired unregistered (common law) trademark rights. Furthermore, the Complainant contends that no license or authorization has been granted to the Respondent for the use of its trademark MELBET, including as a domain name; that there is no affiliation between them; that the Respondent has not been using, or preparing to use, the disputed domain name in connection with a bona fide offering of goods and services, nor making a legitimate non-commercial or fair use of the disputed domain name without intent for commercial gain misleadingly to divert consumers or to tarnish the trademark or service mark at issue as set out by paragraph 4(c)(i) and (iii) of the Policy, in particular given that the Respondent is actively seeking to impersonate the Complainant by creating the impression of being affiliated with or endorsed by the Complainant.

The Complainant contends that the disputed domain name has been registered and that us being used in bad faith, given the Respondent registered the disputed domain name many years after the MELBET brand was introduced in 2012 and after the MELBET trademark was officially registered in Uganda on July 22, 2020; that the Complainant´s trademarks MELBET were already widely known before the registration of the disputed domain name; that the domain name's structure reflects the Respondent's intent to target the Complainant's brand and to cause confusion among Internet users; that the disputed domain name resolves to a website that prominently and repeatedly display the MELBET trademark, on an attempt to mimic the Complainant's official website <melbet.com>, including the distinctive white-yellow-on-black color scheme, which demonstrates that the Respondent is using the disputed domain name with the intent to attract, for commercial gain, users by creating confusion regarding the source, sponsorship, or affiliation of the websites, as set out by paragraph 4.(b)(iv) of the Policy.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical 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

Identical or Confusingly Similar

The Complainant has proved before the Panel that it owns trademark Rights over the term MELBET. In accordance with the Domain Name Jurisprudence, the standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. Concerning trademark registrations with design elements, such elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("WIPO Overview 3.0"), sections 1.2.1, 1.7, and 1.10.

The disputed domain name is the result of the Bengali transliteration of the Complainant's trademark MELBET, which doesn't have a particular meaning in English. Here, the entirety of the Complainant's trademark MELBET is incorporated through such transliteration in the disputed domain name; therefore, the Panel finds that the disputed domain name is identical to the Complainant's trademark. See WIPO Overview 3.0, section 1.14.

It is well established that for the purposes of the analysis of the first element of the Policy, in this case, the generic Top Level Domain (gTLD) '.com', is considered "as a standard registration requirement and as such is disregarded under the first element confusing similarity test". See WIPO Overview 3.0, section 1.11.1.

Therefore, the first element of the Policy has been satisfied.

Rights or Legitimate Interests

Having reviewed the evidence submitted, to this Panel it is clear that:

- Given the Respondent's use of the disputed domain name which seeks to impersonate the Complainant presumably for the Bengali market, it is not possible to relate a demonstrable preparation to use the disputed domain name in connection with a bona fide offering of goods or services, or a legitimate noncommercial or fair use as set out in paragraph 4.c.(i) and 4.c.(iii) of the Policy. Regarding it, UDRP panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. See WIPO Overview 3.0, section 2.13.1.
- There is no evidence that the Respondent corresponds to or has become commonly known by the disputed domain name.
- The Respondent is not affiliated with nor authorized by the Complainant in any way; neither carries out any activity for nor has the Complainant any business with the Respondent; any license or authorization has not been granted to the Respondent to make any use of the Complainant's trademark or apply for its registration as a domain name.

According to the evidence submitted before this Panel, the Complainant has made out its prima facie case, and the Respondent did not submit any response, or communication, nor has it rebutted the Complainant's contentions.

Therefore, the second element of the Policy has been satisfied.

Bad Faith: Registration and Use

Concerning the Registration, the Panel finds that the Complainant owns prior trademark Rights in relation to the registration date of the disputed domain name. Also, the Panel notes that in this case, the Complainant has claimed unregistered/common law trademark rights over the term MELBET.

In relation to this, section 1.3, of the WIPO Overview 3.0, provides a clear reference of what type of evidence supports a claim of common law / unregistered trademark rights under the Policy:

> "(…) Relevant evidence demonstrating such acquired distinctiveness (also referred to as secondary meaning) includes a range of factors such as (**i**) the duration and nature of use of the mark, (**ii**) the amount of sales under the mark, (**iii**) the nature and extent of advertising using the mark, (**iv**) the degree of actual public (e.g., consumer, industry, media) recognition, and (**v**) consumer surveys.(…)." (Emphasis added).

Also, as previous UDRP panelists have held, assertions or the absence of specific evidence are not sufficient to establish that a complainant has common law rights in an unregistered trademark (see Optibet SIA v. Kabir S Rawat, WIPO Case No. D2024-2257 and Batnesto Ltd. v. Askar Rubas, CAC-UDRP Case No. 106874).

Having reviewed the provided evidence of this case, the Panel is not ready to confirm the Complainant´s unregistered trademark rights over the term MELBET since 2012; however, to this Panel, such provided evidence:

1) a waybackmachine's single screenshot of <melbet.com> of December 9, 2012;

2) a review sourced from ChatGPT of December 12, 2024;

3) an article from 'sportsadda.com' of September 9, 2024;

4) an article from 'strafe.com' of September 12, 2024; certainly confirms the existence and use of the term MELBET for online gambling before and by the time of the disputed domain name's registration. Then, considering the domain name´s composition and use, to this Panel it is very clear that the Respondent knew (very well) about the Complainant´s MELBET trademark for online gambling activity by the time of its registration. See section 3.2.2 of the WIPO Overview 3.0.

Regarding the Use, as described in this Decision, the Respondent took the Complainant's trademark, registered it using non-ASCII, non-Latin characters, as in this case the Bengali script, built a website presumably for the Bengali market which seeks to imitate and/or to impersonate the Complainant, including the reproduction of the MELBET trademark along the entire website, which sufficiently proves the Respondent's knowledge of the Complainant's business activity, and the value of its trademarks in the iGaming industry. Concerning it, Panels have held that the use of a domain name for illegal activity (e.g., impersonation/passing off or other types of fraud) constitutes bad faith. See WIPO Overview 3.0, section 3.4.

Therefore, the third element 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. মেলবেট.**com**: Transferred

PANELLISTS

Name	**María Alejandra López García**

DATE OF PANEL DECISION 2025-09-02

Publish the Decision