

ADMINISTRATIVE PANEL DECISION

Merryvale Limited v. Vikash, Dubai Service

Case No. D2022-0284

1. The Parties

Complainant is Merryvale Limited, United Kingdom, represented by Herzog, Fox & Neeman, Israel.

Respondent is Vikash, Dubai Service, India.

2. The Domain Name and Registrar

The disputed domain name <bet2way.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 27, 2022. On January 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 28, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on February 10, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on March 3, 2022.

The Center appointed Lorelei Ritchie as the sole panelist in this matter on March 21, 2022. The Panel finds

that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

Complainant, together with its affiliated companies (collectively “Complainant”), is a global provider of online gaming, based in the United Kingdom. Since 2006, Complainant has offered online gaming and sports betting under its mark BETWAY. Complainant has several registered trademarks for its BETWAY mark, including in India, where Respondent lists an address of record. Complainant’s registrations include, among others, EUIPO Registration Nos. 004832325 (registered January 26, 2007) and 012771564 (registered September 1, 2014).

The disputed domain name has been registered on August 26, 2020. Respondent has used the disputed domain name to resolve to a website that offers services competing with the online gaming and sports betting offered by Complainant under its registered BETWAY mark. Complainant has not authorized any activities by Respondent, nor any use of its trademarks thereby.

5. Parties’ Contentions

A. Complainant

In summary, Complainant contends that the (i) disputed domain name is identical or confusingly similar to Complainant’s trademarks; (ii) Respondent has no rights to or legitimate interests in the disputed domain name; and (iii) Respondent registered and is using the disputed domain name in bad faith.

In particular, Complainant contends that it owns the BETWAY mark, which it uses in connection with its online gaming and sports betting services.

Complainant contends that Respondent has incorporated in full its “widely known and recognized” mark, and merely inserted the number “2”.

Complainant further contends that Respondent has no rights to or legitimate interests in the registration or use of the disputed domain name. Rather, Complainant contends that Respondent has acted in bad faith in registering the disputed domain name and in setting up a competing website, apparently for Respondent’s own commercial gain.

B. Respondent

Respondent did not file a reply to Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

This Panel must first determine whether the disputed domain name <bet2way.com> is identical or confusingly similar to a trademark or service mark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy. The Panel finds that it is. The disputed domain name directly incorporates

Complainant's registered BETWAY mark, with the addition of the number "2."

Numerous UDRP panels have agreed that supplementing or modifying a trademark with basic terms or dictionary words, including numbers, does not make a domain name any less "identical or confusingly similar" for purposes of satisfying this first prong of paragraph 4(a)(i) of the Policy. See, for example, *Inter Ikea Systems B.V. v. Polanski*, WIPO Case No. [D2000-1614](#) (transferring <ikeausa.com>); *General Electric Company v. Recruiters*, WIPO Case No. [D2007-0584](#) (transferring <ge-recruiting.com>); *Microsoft Corporation v. Step-Web*, WIPO Case No. [D2000-1500](#) (transferring <microsofthome.com>); *CBS Broadcasting, Inc. v. Y2K Concepts Corp.*, WIPO Case No. [D2000-1065](#) (transferring <cbsone.com>); see also *Yeoman Asset, Management, LLC v. Domains Manager, Vivial-VSM*, WIPO Case No. [D2021-3539](#) (transferring <redditstorage175.com>).

The Panel therefore finds that the disputed domain name is identical or confusingly similar to a trademark in which Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

As described in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "while the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of 'proving a negative', requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element".

The Policy provides some guidance to respondents on how to demonstrate rights to or legitimate interests in the disputed domain name in a UDRP dispute. For example, paragraph 4(c) of the Policy gives examples that might show rights or legitimate interests in a domain name. These examples include: (i) use of the domain name "in connection with a *bona fide* offering of goods or services"; (ii) demonstration that Respondent has been "commonly known by the domain name"; or (iii) "legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue".

Respondent did not submit a reply to Complainant's contentions. Thus, Respondent did not allege or otherwise provide any information that would support a finding that Respondent has rights to or legitimate interests in the disputed domain name. Accordingly, the Panel finds that Complainant has made a *prima facie* showing of Respondent's lack of rights or legitimate interest in the disputed domain name, which Respondent has not rebutted.

C. Registered and Used in Bad Faith

There are several ways that a complainant can demonstrate that a domain name was registered and used in bad faith. For example, paragraph 4(b)(iv) of the Policy states that bad faith can be shown where "by using the domain name [respondent has] intentionally attempted to attract, for commercial gain, Internet users to [respondent's] web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of [respondent's] website or location or of a product or service on [the] web site or location". As noted in Section 4 of this Panel's decision, Respondent has used the disputed domain name to resolve to a website that offers services competing with the online

gaming and sports betting offered by Complainant under its registered BETWAY mark. Respondent is thus trading on the goodwill of Complainant's trademarks to attract Internet users, presumably for Respondent's own commercial gain. See also *Merryvale Limited v. 莫静宜 (Mo Jing Yi)*, WIPO Case No. [D2021-1559](#) (transferring <betway11.com> and finding "Complainant's BETWAY marks and related services are widely known and recognized.").

The Panel finds that Respondent registered and used the disputed domain name in bad faith for purposes of paragraph 4(a)(iii) of the Policy.

7. Decision

For all the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name <bet2way.com> be transferred to Complainant.

/Lorelei Ritchie/

Lorelei Ritchie

Sole Panelist

Dated: April 4, 2022