

## **ADMINISTRATIVE PANEL DECISION**

Cube Limited v. Whois Privacy Protection Service by onamae.com / duzadee ramakomut, Business555  
Case No. D2022-1684

### **1. The Parties**

The Complainant is Cube Limited, Isle of Man, represented by Farrer & Co., United Kingdom (“UK”).

The Respondent is Whois Privacy Protection Service by onamae.com, Japan / duzadee ramakomut, Business555, Thailand.

### **2. The Domain Names and Registrar**

The disputed domain names <1888bet.club> and <1888bet-thai.com> are registered with GMO Internet, Inc. d/b/a Discount-Domain.com and Onamae.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on May 9, 2022. On May 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 10, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on May 13, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on May 18, 2022.

On May 13, 2022, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On May 16, 2022, the Complainant submitted a request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

The Center verified that the Complaint together with the amended 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 the Respondent in English and Japanese of the Complaint, and the proceedings commenced on May 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 9, 2022. The Respondent did not submit a substantive response. However, the Center received a Respondent communication in English by email on May 14, 2022. On June 12, 2022, the Center informed the Parties that it would proceed to panel appointment.

The Center appointed Keiji Kondo as the sole panelist in this matter on June 27, 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**

The Complainant operates its business from its website, “www.188bet.com”, which provides consumers with a range of betting products/services. It specializes in live and traditional casino entertainment services online. The Complainant has a global customer base, and the majority of customers are based in Asia.

The Complainant owns trademark registrations worldwide for the combination of the numerals “188” and the wording “BET”, that is, 188BET. For example, the Complainant owns UK Trademark No. UK00908425324 for classes 9, 28, 41, and 42, which was registered on March 22, 2010 for the application filed on July 14, 2009.

The Complainant also owns trademark registrations for a device mark which comprises the number 188 within an irregular slanting orange pentagonal shape and the wording “BET” just outside the pentagonal shape. For example, the Complainant owns UK Trademark No. UK00908449597 for classes 9, 28, 41, and 42, which was registered on March 22, 2010 for the application filed on July 3, 2009.

The Complainant, using the above-mentioned trademarks, performs various sponsorship activities, for example, for football clubs. In particular, the Complainant’s trademarks have been used in sponsoring/partnering with English Premier League (“EPL”) football clubs.

The disputed domain name <1888bet.club> was registered on April 24, 2021, and the disputed domain name <1888bet-thai.com> was registered on November 3, 2021.

The disputed domain name <1888bet.club> is used only to redirect Internet users to an active website at the disputed domain name <1888bet-thai.com>. The website located at “www.1888bet-thai.com” is a sports betting and gaming website, and it displays not only the Complainant’s trademarks, but also the logo of the Isle of Man Gambling Supervision Commission, the regulatory body from which the Complainant holds a license to conduct its online gaming business, and the Complainant’s name, Cube Limited.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The disputed domain names are identical or confusingly similar to the Complainant’s trademarks.

In order to satisfy the threshold test for confusing similarity, the relevant trademark generally needs to be recognizable as such from within the disputed domain names. In this case, there can be no doubt that the disputed domain names wholly incorporate the Complainant’s trademark 188BET. The Complainant’s trademark is clearly recognizable from within the disputed domain names.

The distinctive elements and dominant components of the disputed domain names are the numerals “1888” and the letters/word “bet” in the form “1888bet”, which contains all the elements of the Complainant’s

trademark 188BET. The addition of the additional, non-distinctive number “8” after the numerals “188” does nothing to minimize the risk of confusion to potential customers associating it with the Complainant and/or its trademarks. The Complainant further submits the additional generic word “thai” (which is used to indicate the language on the website) does not serve to distinguish the disputed domain name <1888bet-thai.com> from the Complainant’s trademark 188BET.

The Respondent has no rights or legitimate interests in respect of the disputed domain names.

The WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1, states once a complainant has made out a *prima facie* case the respondent lacks rights or legitimate interests, the burden shifts to the respondent to come forward with appropriate evidence demonstrating its rights or legitimate interests in respect of the domain name.

As stated above, the disputed domain name <1888bet.club> is used to redirect Internet users to an active website purporting to be the Complainant. The website to which the disputed domain name <1888bet-thai.com> directs prominently (and on each page) displays the Complainant’s trademarks for which the Respondent has no permissions/authorizations from the Complainant to use. The Respondent is neither a licensee of the Complainant nor does it have any connection or affiliation with the Complainant whatsoever. The Respondent has no rights to use the Complainant’s trademarks (or confusingly similar trademarks) in the disputed domain names, and has not received any consent, express or implied, to do so.

The Respondent does not, to the best of the Complainant’s knowledge after a reasonable search of relevant registers (e.g. via the European Union Intellectual Property Office’s TMView database), own any registered rights that are identical or confusingly similar to the Complainant’s trademarks. Moreover, the disputed domain names were registered through a privacy protection service, so the Respondent is not known by or has a common association with the disputed domain names; that is, the Respondent is not commonly known by the disputed domain names.

Moreover, the use of typosquatting to redirect unsuspecting users to the disputed domain names and the website directing from it, is not a legitimate use and “[...] does not create legitimate rights to a domain [...]”. (See *PHE, Inc. v. Bill McCall*, WIPO Case No. [D2003-0516](#), and *Wikimedia Foundation, Inc. v. Domain Administrator, Private Registration / Scott Elliott, Transcom Ltd.*, WIPO Case No. [D2015-1404](#).)

The Respondent is not making a legitimate noncommercial or fair use of the disputed domain names, but the Respondent is using them to deliberately mislead and/or divert Internet users to its website for commercial gain. *Malayan Banking Berhad v Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#), held that the use of a domain name which is identical or confusingly similar to the complainant’s trademark with an intention of deriving advantage from user confusion and diverting Internet users to other commercial sites does not confer legitimate rights on a respondent. Therefore, the Respondent’s use of the disputed domain names will not confer such rights upon it. (See also *bwin Services AG v shenoyan*, WIPO Case No. [D2011-0901](#).)

The disputed domain names were registered and are being used in bad faith.

The Complainant has a long-established reputation in the use of the Complainant’s trademarks in relation to the provision of online sportsbook/gaming services offered from its website since 2006. The registration of the disputed domain names by the Respondent occurred in 2021, fifteen (15) years after the Complainant first commenced its use of the Complainant’s trademarks. Given the Complainant’s significant global reputation, the Respondent likely knew of the Complainant’s prior rights in the Complainant’s trademarks before registering the disputed domain names and creating the website which uses the Complainant’s trademarks. The Respondent should have registered the disputed domain names in bad faith. (See *Cube Limited v. Domain Administrator / Super Privacy Service LTD c/o Dynadot / xinpings wang / chongqing huang / lihong chen / ribiao xie*, WIPO Case No. [D2019-2901](#), *Cube Limited v. Gang Zhen Xiong*, WIPO Case No. [D2018-0888](#), *Dareos Ltd, Dareos Inc., Ritzio Purchase Limited v. Moniker Privacy Services/ Natalia Zelenina*, WIPO Case No. [D2019-0533](#), and *Cube Limited v. Tin Vo*, WIPO Case No. [D2020-3188](#).)

The alteration of the disputed domain names by placing an additional “8” after the numeral “188” is strongly evocative of typosquatting. The use of typosquatting by the Respondent in the disputed domain names itself, in an attempt to attract Internet users to the websites at the disputed domain names, diverting them from reaching the Complainant’s website, in and of itself is clear evidence of bad faith registration. (See *Amazon.com, Inc. v. Steven Newman a/k/a Jill Wasserstein a/k/a Pluto Newman*, WIPO Case No. [D2006-0517](#), and *ESPN, Inc. v. XC2*, WIPO Case No. [D2005-0444](#).)

Upon entering the disputed domain names into a search engine, Internet users are directed to a website falsely purporting to be the Complainant’s and/or sponsored, endorsed or affiliated with the Complainant, which it is not. (see *Société Air France v. job recruitment*, WIPO Case No. [D2008-1395](#)). The website at the disputed domain name <1888bet-thai.com> is demonstrative of bad faith in using the disputed domain names on the part of the Respondent. (See *Cube Limited v. you han fang*, WIPO Case No. [D2017-1683](#) and *Cube Limited v. Gang Zhen Xiong*, WIPO Case No. [D2018-0888](#).)

The Respondent has:

- (a) registered and used the disputed domain names, as outlined above, with the intention of confusing Internet users into thinking they are being re-directed to a website owned by the Complainant, or affiliated to the Complainant’s business for the Respondent’s own commercial gain;
- (b) not offered, on the website from which the disputed domain names direct, any statement indicating the lack of Respondent’s affiliation with the Complainant; and
- (c) clearly and intentionally attempted to attract, for commercial gain, consumers by creating a likelihood of confusion with the Complainant trademarks, as to the source, sponsorship, affiliation and/or endorsement of the Respondent’s website and the services available from that website.

(See *Educational Testing Service v. ETS ETS*, WIPO Case No. [D2009-0363](#), *Compagnie Générale des Etablissements Michelin (Michelin) v. BMTekhnologiya MMC, Tural Malikov*, WIPO Case No. [D2010-2150](#), *Sixt AG v. DSA QWE Inc.*, WIPO Case No. [D2013-0504](#), and *Cube Limited v. Gang Zhen Xiong*, WIPO Case No. [D2018-0888](#).)

## **B. Respondent**

The Respondent did not submit a formal Response. In an informal communication to the Center, however, the Respondent wrote: “hello im willing to change the domain name of my website. but can u please give me time like 1 month to do so.”

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreement of the disputed domain name is Japanese. On May 13, 2022, the Center transmitted an email communication to the Parties in English and Japanese regarding the language of the proceeding. On May 16, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

Considering the following circumstances, the Panel, exercising its authority to determine the language of the proceeding under paragraph 11(a) of the Rules, has decided English as the language of the proceeding:

- the Complaint was filed in English;
- the Complainant is an entity in Isle of Man, and represented by a UK law firm;

- the Respondent's address is in Thailand;
- the Respondent did not comment on the language of the proceeding;
- the Respondent's informal communication to the Center demonstrates that the Respondent has some ability to communicate in English; and
- ordering the translation of the Complaint would only result in extra delay of the proceeding and additional cost for the Complainant.

## 6.2. Substantive Issues

### A. Identical or Confusingly Similar

The Complainant owns UK Trademark No. 00908425324 for 188BET, and UK Trademark No. 00908449597 for 188BET (figurative). Both of the Complainant's trademark registrations were registered on March 22, 2010.

The disputed domain names incorporate the Complainant's trademark 188BET in its entirety, with addition of "8". Even with the addition of "8", the Complainant's trademark 188BET is recognizable in the disputed domain names.

The disputed domain name <1888bet-thai.com> further comprises "-thai", which does not prevent a finding of confusing similarity.

It is well-established that the generic Top-Level Domain ("gTLD") should typically be disregarded in finding of confusing similarity because it is viewed as a standard registration requirement. In this case, ".club" and ".com" should be disregarded.

Accordingly, the Panel finds that the disputed domain names are confusingly similar to the Complainant's trademark within the meaning of paragraph 4(a)(i) of the Policy.

### B. Rights or Legitimate Interests

The disputed domain name <1888bet.club> is used only to redirect Internet users to an active website at the disputed domain name <1888bet-thai.com>. The website at "www.1888bet-thai.com" is a sportsbook and gaming website, where the Respondent is apparently offering certain services and/or goods for its commercial gain. Therefore, the Respondent's use of the disputed domain names cannot be recognized as legitimate noncommercial or fair use.

The website at "www.1888bet-thai.com" displays the Complainant's name and trademarks, but the Respondent has no permissions/authorizations from the Complainant to use the Complainant's trademarks in any manner. Moreover, the services and/or goods offered at the Respondent's website are related to the Complainant. With other factors discussed below with respect to bad faith registration and use, use of the Complainant's trademark at the Respondent's website precludes finding of *bona fide* offering of goods or services.

Therefore, the use of the disputed domain names by the Respondent is not a legitimate noncommercial or fair use under paragraph 4(c)(iii) of the Policy, nor a use in connection with a *bona fide* offering of goods or services under paragraph 4(c)(i) of the Policy.

Finally, there is no connection between the Respondent's name and "1888bet". In addition, the Respondent, in its informal communication to the Center, expressed its intention to change the domain name, which further suggests that the Respondent is not commonly known by "1888bet" or "1888bet-thai". Therefore, the

Panel concludes that the Respondent has never been commonly known by the disputed domain names within the meaning of paragraph 4(c)(ii) of the Policy.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain names within the meaning of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

The Complainant's UK Trademark registrations were registered on March 22, 2010, which predates the registration date of the disputed domain names by more than eleven years. In addition, it is unlikely to select "1888bet" as distinctive part of a domain name without knowing the Complainant's trademark "188BET". Therefore, it is inconceivable that the Respondent registered the disputed domain names without knowledge of the Complainant's trademarks.

In registering the disputed domain names, the Respondent altered the Complainant's trademark "188BET" by adding "8", or replacing the double eight "88" with the triple eight "888". Such alteration itself is evidence of typical typosquatting. Therefore, the Panel concludes that the disputed domain names have been registered in bad faith.

At the website at "www.1888bet-thai.com", the Respondent uses the Complainant's name and trademarks. Obviously, the Respondent's use of the Complainant's trademark is aimed at causing confusion between the Respondent and the Complainant. It is further obvious from the Respondent's website itself that the website is for commercial purposes. The Panel also notes that the Complainant's business and the Respondent's business have common area of sports betting and gaming. Further, the majority of the Complainant's customers are based in Asia and the Respondent is a Thai resident. Therefore, the Panel concludes that the Respondent has been using the disputed domain names in an intentional attempt to attract, for commercial gain, Internet users to the Respondent's website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. The disputed domain names are being used in bad faith.

Accordingly, the Panel finds that 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.

### **7. Decision**

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain names, <1888bet.club> and <1888bet-thai.com>, be transferred to the Complainant.

*/Keiji Kondo/*

**Keiji Kondo**

Sole Panelist

Date: July 7, 2022