

ADMINISTRATIVE PANEL DECISION

Navasard Limited v. Junior Boys
Case No. D2022-2973

1. The Parties

The Complainant is Navasard Limited, Cyprus, represented internally.

The Respondent is Junior Boys, United Arab Emirates.

2. The Domain Name and Registrar

The disputed domain name <1xbet.exchange> (the “Disputed Domain Name”) is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 11, 2022. On August 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On August 15, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 16, 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 on August 17, 2022.

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 of the Complaint, and the proceedings commenced on August 18, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 9, 2022.

The Center appointed Nick J. Gardner as the sole panelist in this matter on September 23, 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 is a company registered in Cyprus. The Complainant is the owner of the 1XBET word European Union trademark registration, number 014227681, which was registered on September 21, 2015 (the “1XBET trademark”). The Complainant also owns the 1XBET design European Union trademark registration number 013914254, which was registered on July 27, 2015. The Complainant uses the above mentioned trademarks in connection with the provision of online sports betting services.

The Disputed Domain Name was registered on May 23, 2022. The Disputed Domain Name currently resolves to a website displaying sports betting content.

5. Parties’ Contentions

A. Complainant

The Complainant says that the 1XBET brand is one of the most recognised sports betting brands in Eastern Europe.

The Complainant says that the Disputed Domain Name is identical to the 1XBET trademark.

The Complainant says that the Respondent has no rights or legitimate interests in the Disputed Domain Name. The Complainant says that it did not authorize the Respondent to use its trademark in the Disputed Domain Name.

The Complainant says that the passive holding of the Disputed Domain Name amounts to bad faith registration and use and cites a number of previous UDRP decisions which it says support this argument. It appears to the Panel that the Complainant has proceeded on this basis notwithstanding that in fact the Disputed Domain Name is in use – it resolves to a website offering betting related facilities.

B. Respondent

The Respondent did not reply to the Complainant’s contentions.

6. Discussion and Findings

6.1 Preliminary Matters – Respondent’s Default

The Panel notes that no Response has been received from the Respondent. However, given the Complaint and Written Notice were sent to the relevant addresses disclosed by the Registrar, then the Panel considers that this satisfies the requirement in paragraph 2(a) of the Rules to “employ reasonably available means calculated to achieve actual notice”. Accordingly, the Panel considers it is able to proceed to determine this Complaint and to draw inferences from the Respondent’s failure to file any Response. While the Respondent’s failure to file a Response does not automatically result in a decision in favor of the Complainant, the Panel may draw appropriate inferences from the Respondent’s default (see, e.g., *Verner Panton Design v. Fontana di Luce Corp*, WIPO Case No. [D2012-1909](#)).

6.2 Preliminary Matters – Respondent Identity

The Panel notes this is a case where one of the Respondents (Registration Private, Domains By Proxy, LLC) appears to be a privacy or proxy registration service while the other Respondent (Junior Boys) appears to be the substantive Respondent. The Panel in this case adopts the approach of most UDRP panels, as outlined in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) at section 4.4.5, as follows:

“Panel discretion

In all cases involving a privacy or proxy service and irrespective of the disclosure of any underlying registrant, the appointed panel retains discretion to determine the respondent against which the case should proceed.

Depending on the facts and circumstances of a particular case, *e.g.*, where a timely disclosure is made, and there is no indication of a relationship beyond the provision of privacy or proxy registration services, a panel may find it appropriate to apply its discretion to record only the underlying registrant as the named respondent. On the other hand, *e.g.*, where there is no clear disclosure, or there is some indication that the privacy or proxy provider is somehow related to the underlying registrant or use of the particular domain name, a panel may find it appropriate to record both the privacy or proxy service and any nominally underlying registrant as the named respondent.”

In the present case, the Panel considers the substantive Respondent to be Junior Boys and references to the Respondent are to that person.

6.3 Substantive Matters

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has rights in the 1XBET trademark.

It is well established that the generic Top-Level Domain (“gTLD”), in this case “.exchange”, does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#). It follows that the Disputed Domain Name is therefore identical to the 1XBET trademark.

Accordingly, the Panel finds that the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a domain name:

- (i) before any notice to the respondent of the dispute, the respondent’s use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) the respondent has been commonly known by the domain name, even if the respondent has acquired no trademark or service mark rights; or

(iii) the respondent is making a 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.

Given that the Disputed Domain Name resolves to a website providing betting related facilities paragraph 4(c)(i) is potentially applicable. The issue then is as to the meaning of “*bona fide*”. It seems to the Panel that paragraph 4(c)(i) cannot simply apply if a business exists which has demark as its name, otherwise the Policy would be inapplicable to all cases in which a respondent was operating a business, which is clearly not its intention. The words “*bona fide*” must encompass the Respondent’s knowledge and motives in choosing the name in question – if done deliberately to trade off, or take advantage of the Complainant’s name or reputation, then the “*bona fide*” requirement is not met.

Is this such a case? It seems to the Panel that it is – the Respondent has simply adopted the Complainant’s trademark in order to create confusion and take advantage of the Complainant’s trademark and attract customers to a website offering competing services - and hence the *bona fide* requirement is not met.

Furthermore the Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Name or to use 1XBET trademark. The Complainant has prior rights in the 1XBET trademark which precede the Respondent’s acquisition of the Disputed Domain Name. The Complainant has therefore established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Name and thereby the burden of production shifts to the Respondent to produce evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Name (see, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel finds that the Respondent has failed to produce any evidence to establish his rights or legitimate interests in the Disputed Domain Name. Accordingly the Panel finds the Respondent has no rights or legitimate interests in the Disputed Domain Name and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

The term “1xbet” appears to be distinctive and have no meaning other than in relation to the Complainant and the gaming services it provides.

The Panel notes that currently the Disputed Domain Name resolves to a website displaying sports betting content. It seems to the Panel that the Respondent is seeking to cause confusion by using the Complainant’s distinctive trademark to attract customers to a website which provides services which compete with those the Complainant offers. The Panel adopts the approach set out in [WIPO Overview 3.0](#) at section 3.1.4 as follows:

“Panels have moreover found the following types of evidence to support a finding that a respondent has registered a domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the complainant’s mark: (i) actual confusion, (ii) seeking to cause confusion (including by technical means beyond the domain name itself) for the respondent’s commercial benefit, even if unsuccessful, (iii) the lack of a respondent’s own rights to or legitimate interests in a domain name, (iv) redirecting the domain name to a different respondent-owned website, even where such website contains a disclaimer, (v) redirecting the domain name to the complainant’s (or a competitor’s) website, and (vi) absence of any conceivable good faith use.”

In the present case the Panel adopts this approach and notes in particular the Respondent’s failure to provide any evidence of actual or contemplated good-faith use.

Applying the principles set out in [WIPO Overview 3.0](#) as described above, the Panel finds that the Disputed Domain Name has been registered and is being used in bad faith. Accordingly, the third condition of paragraph 4(a) of the Policy has been fulfilled.

8. 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 Name <1xbet.exchange> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: October 7, 2022