

ADMINISTRATIVE PANEL DECISION

Kaizen Gaming International Limited v. Dmitriy Pastov
Case No. D2023-0109

1. The Parties

The Complainant is Kaizen Gaming International Limited, Malta, represented by Ubilibet, Spain.

The Respondent is Dmitriy Pastov, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <betano-pt.com> is registered with Dynadot, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 10, 2023. On January 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 11, 2023, 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 January 11, 2023, 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 January 12, 2023.

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 January 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 3, 2023.

The Center appointed Fabrizio Bedarida as the sole panelist in this matter on February 8, 2023. 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 in this proceeding is Kaizen Gaming International Limited. The Complainant is one of the fastest growing GameTech companies internationally. Starting from the Stoiximan brand in Greece in 2012, the Complainant now operates two brands in 12 countries: BETANO (Portugal, Brazil, Romania, Germany, Bulgaria, Czech Republic, Chile, Peru, Ecuador, Canada [Ontario]) and STOIXIMAN (Greece, Cyprus) and employs more than 1,500 people across two continents.

BETANO is an online gaming operator that uses the latest technology to deliver a user friendly interface and an engaging betting and casino experience. The platform offers a wide range of top tier products, such as Sportsbook, Live Betting and Casino.

The Complainant is, *inter alia*, the owner of:

- European Union trademark BETANO (word) application number 014893671, registered on December 10, 2015;
- European Union trademark BETANO (device) application number 018170411, filed on December 20, 2019, and registered on May 22, 2020;
- International trademark BETANO (word) application number 1678581, registered on June 10, 2022.

The disputed domain name was registered on July 23, 2021.

The disputed domain name resolves to a page where a message announcing that the website is blocked is displayed. However, previously (at least on December 21, 2022), the website reproduced the "BETANO" device trademark in its content and displayed information about Betano in Portugal.

5. Parties' Contentions

A. Complainant

The Complainant claims that:

- (a) the disputed domain name is confusingly similar to the Complainant's trademark;
- (b) the Respondent lacks any rights or legitimate interests in the disputed domain name; and
- (c) the Respondent has registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

In order for the Complainant to obtain a transfer of the disputed domain name, paragraphs 4(a)(i) – (iii) of the Policy require that the Complainant must demonstrate to the Panel that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and (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 established rights in the BETANO trademark. The disputed domain name contains the Complainant's BETANO trademark with the addition of a hyphen, the term "pt", and the generic Top-Level Domain ("gTLD") ".com".

The addition in the disputed domain name of these elements does not prevent a finding of confusing similarity, being the BETANO trademark recognizable in the disputed domain name.

Pursuant to section 1.8 of the Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") which states: "Where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements."

Therefore, the Panel finds the disputed domain name to be confusingly similar to the BETANO trademark in which the Complainant has rights.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

This Panel finds that the Complainant has made a *prima facie* case that the Respondent does not have rights or legitimate interests in the disputed domain name. The Respondent has no connection or affiliation with the Complainant, and the Complainant has not licensed or otherwise authorized the Respondent to use or register any domain name incorporating the Complainant's trademark. The Respondent does not appear to engage in any legitimate noncommercial or fair use of the disputed domain name, nor any use in connection with a *bona fide* offering of goods or services.

Indeed, it appears that the Respondent has attempted to usurp the Complainant's goodwill in the trademark, in an attempt to confuse and deceive Internet users into doing business with the Respondent. In addition, the Respondent does not appear to be commonly known by the disputed domain name or by a similar name. Moreover, the Respondent has not replied to the Complainant's contentions, claiming any rights or legitimate interests in the disputed domain name.

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

C. Registered and Used in Bad Faith

Based on the evidence put forward by the Complainant, the Panel is of the opinion that the Respondent was aware of the Complainant's trademark registrations and rights to the BETANO mark when it registered the disputed domain name.

The disputed domain name was used for a website where the content displayed showed the Complainant's trademark and displayed information about the Complainant's business.

Consequently it is clear that the Respondent registered the disputed domain name while aware of the Complainant's trademark and activity, and did so with the intention to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of either the Respondent and/or its website, so as to trick those users into doing business with the Respondent.

In fact, it appears that the Respondent intentionally and fraudulently attempted to impersonate the Complainant by using a website that reproduced its trademark to confuse Complainant's customers.

This constitutes bad faith registration and use as well as a disruption of the Complainant's business under the Policy.

A further circumstance supporting a finding of bad faith can also be found in the failure to respond to the Complainant's contentions.

Accordingly, the Panel finds, on the basis of the evidence presented, that the Respondent registered and is using the disputed domain name in bad faith.

Therefore, the Complainant has satisfied 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 name, <betano-pt.com> be transferred to the Complainant.

/Fabrizio Bedarida/

Fabrizio Bedarida

Sole Panelist

Date: February 22, 2023