

ADMINISTRATIVE PANEL DECISION

Merryvale Limited v. Super Privacy Service LTD c/o Dynadot / longzhu mart,
zhanghui

Case No. D2022-0266

1. The Parties

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

The Respondent is Super Privacy Service LTD c/o Dynadot, United States of America (“United States”) / longzhu mart, zhanghui, United States.

2. The Domain Name and Registrar

The disputed domain name <betway-777.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 26, 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 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 28, 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 January 30, 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 February 3, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 23, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 24, 2022.

The Center appointed Linda Chang as the sole panelist in this matter on March 4, 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 member of the Betway Group of companies which provides services in the field of online gaming and sport betting under the brand name Betway since 2006. The Complainant operates a website at "www.betway.com".

The Complainant is the proprietor of BETWAY trademark registrations in various jurisdictions, *inter alia*, the United Kingdom trademark No. 00003234076, registered on August 18, 2017; the China trademark No. 14428000, registered on May 28, 2015; and the New Zealand trademark No. 1036086, registered on January 26, 2016.

The disputed domain name <betway-777.com> was registered on July 7, 2021 and resolves to a website promoting numerous gambling websites.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the BETWAY trademark, as the disputed domain name consists of "betway" with the mere addition of a hyphen "-" and the number "777".

The Complainant further clarifies that the Respondent is not affiliated with the Complainant and has never been licensed or otherwise authorized to use the BETWAY trademark.

The Complainant also asserts that the Respondent attempts to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the BETWAY trademark as to the source, sponsorship, affiliation, or endorsement of its website.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, the Complainant must prove each of the following:

(i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) that the Respondent has no rights or legitimate interests in respect of the disputed domain name; and

(iii) that the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

Based on the submitted evidence, the Complainant has successfully established its registered trademark rights of BETWAY.

It is well established that the impact of the generic Top-Level Domain “.com” as standard registration requirement is disregarded under the confusing similarity test. Therefore, the dominant part of the disputed domain name is “betway-777”, which contains the Complainant’s BETWAY trademark. The BETWAY trademark is clearly recognizable in the disputed domain name. The addition of the number “777” along with a hyphen is irrelevant for purposes of the Policy and does not avoid a finding of confusing similarity.

The Panel concludes that the disputed domain name is confusingly similar to the Complainant’s BETWAY trademark and that paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Panel observes that the disputed domain name is resolving to an advertising website containing pay-per-click links redirecting to numerous gambling websites providing services competing with the Complainant. The Panel finds that no rights nor legitimate interests will be created when the Respondent uses the disputed domain name to redirect Internet users to third-party websites providing services competitive to those of the Complainant’s. Such use cannot be characterized as *bona fide* nor noncommercial or fair use by the Respondent.

The Panel holds that the Complainant has made out a *prima facie* case that the Respondent does not have rights or legitimate interests in respect of the disputed domain name. The burden of production on this element hence shifts to the Respondent to rebut the Complainant’s contentions. However, the Respondent failed to rebut the Complainant’s *prima facie* case.

The Panel concludes that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The Complainant has been using its BETWAY trademark for more than 15 years and its operated website has over 1.98 million users worldwide in 2021. Given the Complainant’s long-standing presence in the gaming industry since 2006, the Respondent’s selection of the Complainant’s BETWAY trademark in 2021 can hardly be considered as coincidence. The Panel finds it reasonable to infer that the Respondent knew or should have known of the Complainant’s BETWAY trademark before registering the disputed domain name.

Lacking any explanation or defense from the Respondent, the Panel finds it hard to justify the good faith of the Respondent in registering the disputed domain name and using it in the way as stated under section 6B other than its intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant and the BETWAY trademark as to the source, sponsorship, affiliation, or endorsement of its website.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith and that paragraph 4(a)(iii) of the Policy is satisfied.

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 <betway-777.com> be transferred to the Complainant.

/Linda Chang/

Linda Chang

Sole Panelist

Date: March 25, 2022