

## **ADMINISTRATIVE PANEL DECISION**

Navasard Limited v. Walter Schuster  
Case No. D2024-1639

### **1. The Parties**

The Complainant is Navasard Limited, Cyprus, internally represented.

The Respondent is Walter Schuster, Germany.

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

The disputed domain name <1xstream.org> is registered with INWX GmbH (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 18, 2024. On April 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 22, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 24, 2024, 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 amendment to the Complaint in English on April 25, 2024.

On April 24, 2024, the Center transmitted an email communication to the Parties in English and German regarding the language of the proceeding. On April 29, 2024, the Complainant submitted its 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 amendment to 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 the Respondent in English and German of the Complaint, and the proceedings commenced on May 13, 2024. In accordance with the Rules, paragraph 5, the due date for Response was June 2, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on June 4, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on June 10, 2024. 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 following facts are undisputed.

The Complainant is an online sports betting company, particularly known in the eastern Europe. The Complainant exists since March 9, 2015.

The Complainant owns various registration in various countries worldwide for the trademark 1XBET, e.g., the European Union ("EU") trademark registration No. 014227681 for the word mark 1XBET, with registration date September 21, 2015, registered for products and services in classes 35, 41, 42. It also owns the EU trademark registration No. 013914254 for the logo including word elements 1XBET, with registration date July 27, 2015, registered for products and services in classes 35, 41, 42.

The trademark of Complainant was registered before the disputed domain name, which was registered on September 20, 2021.

The disputed domain name resolves to a webpage with links directing to live streams of football matches.

#### **5. Parties' Contentions**

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

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends the following.

The Complainant contend that the disputed domain name incorporates the "1X" prefix, which is a key component of the Complainant's registered trademarks. This similarity is deemed to be significant enough to cause confusion among consumers.

The usage of "1X" has not been authorized by the Complainant and the Respondent is therefore unlawfully benefitting from the trademarks of the Complainant. The Respondent is potentially profiting from the disputed domain name by taking advantage of the similarity with the trademarks of the Complainant and reselling the disputed domain name for profit. Furthermore, the Respondent is not making any commercial or fair use of the disputed domain name.

Furthermore, the Complainant notes that the webpage that the disputed domain name resolves to at the time of filing the Complaint, displayed a sign that is identical to the logo of the Complainant. As a result, the Respondent is attempting to deceive consumers by creating the impression of being affiliated with the Complainant and trying to pass off as an official or affiliated entity of the Complainant. Therefore, the Respondent is misleading consumers and potentially causing harm to Complainant's trademarks and reputation.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **Language of the Proceeding**

The language of the Registration Agreement for the disputed domain name is German. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement. The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the facts that (1) the Respondent is clearly familiar with the English language; (2) The content displayed on the website to which the disputed domain name resolves is in English; (3) It would be unfair to burden the Complainant with the translation of proceedings.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1). Having considered all the matters above, and also taken into account the lack of a response by the Respondent, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

### **A. Identical or Confusingly Similar**

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

In line with [WIPO Overview 3.0](#), section 1.7, the confusing similarity with a complainant's trademark can also be found within the broader case context such as a website content trading off a complainant's reputation. In addition, in line with [WIPO Overview 3.0](#), section 1.11, in some instances, panels have taken note of the content of the website associated with a domain name to confirm confusing similarity whereby it appears prima facie that the respondent seeks to target a trademark through the disputed domain name. While the disputed domain name is reproducing only the "1X" element of the Complainant's 1XBET trademark, as the Respondent has used "1x" in the same style and font as the Complainant's logo on the website at the disputed domain name, the Panel finds that in the present case the disputed domain name is confusingly similar to the Complainant's trademark.

In that light, the Panel finds the mark is recognizable within the disputed domain name. And accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy.

The Panel finds the first element of the Policy has been established.

### **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Panels have held that the use of a domain name for illegal activity here, impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

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

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Panel notes that the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant’s mark.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have held that the use of a domain name for illegal activity here, impersonation/passing off, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 <1xstream.org> be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: June 14, 2024