

ADMINISTRATIVE PANEL DECISION

Kaizen Gaming International Limited v. Mihaela Sinclair
Case No. D2024-2507

1. The Parties

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

The Respondent is Mihaela Sinclair, Romania.

2. The Domain Name and Registrar

The disputed domain name <betano.studio> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 19, 2024. On June 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 21, 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 June 28, 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 amended Complaint on July 1, 2024.

The Center verified that the Complaint 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 July 2, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 22, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 23, 2024.

The Center appointed Philippe Gilliéron as the sole panelist in this matter on August 14, 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 Complainant is active in the gambling and entertainment industry. It operates in several countries, and in 2022 (latest available information), its platforms hosted more than 220 million transactions, exceeding the figure of 7 million active users.

The Complainant holds numerous trademarks consisting of the term “BETANO” on a worldwide basis, such as, for instance: the European Union (“EU”) verbal trademark n° 014893671 BETANO that was registered on March 23, 2016 in classes 9, 41, and 42 with a priority date as of December 10, 2015; the United Kingdom verbal trademark No. UK00914893671 “BETANO that was registered on March 23, 2016 in classes 9, 41, and 42, resulting from the EU registration; and the Portuguese combined trademark No. 630504 “BETANO.pt O JOGO COMEÇA AGORA” that was registered in classes 9, 41 and 42 on January 2, 2020 with a priority date as of September 24, 2019.

On July 24, 2023, the Respondent registered the disputed domain name. The disputed domain name automatically redirects to a website at “joya.casino” which purportedly offers gambling services.

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 that disputed domain name is confusingly similar to its trademark BETANO as it entirely incorporates such trademark.

The Complainant then affirms that the Respondent has no rights or legitimate interests in the disputed domain name as it has never authorized or licensed the Respondent to use its BETANO trademark and that the Respondent does not own any such trademark and is not known under that name.

Finally, the Complainant is of the view that the disputed domain name was registered and is being used in bad faith. Taken into account its worldwide reputation and the fact that its BETANO trademark has to be considered a well-known trademark, the Complainant considers that the Respondent was obviously aware of the Complainant’s trademark when it registered the disputed domain name, and that the redirection of the website to a gambling website which is the Complainant’s core activity amounts to a use in bad faith.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “[...] decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

(i) the disputed domain name is identical or confusingly similar to a trademark or a 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

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 of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[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.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

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.

Furthermore, the Panel notes the composition of the disputed domain name, which carries a high risk of implied affiliation with the Complainant, [WIPO Overview 3.0](#), section 2.5.1, and that the disputed domain name used to resolve to a website purportedly offering gambling related activities, i.e., identical services to the Complainant's ones.

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 has registered the disputed domain name consisting of the BETANO trademark to redirect it to a website that is purportedly offering gambling services.

As a result, there is no doubt that the Respondent was well aware of the Complainant's trademark when it registered the disputed domain name and that, in doing so, the Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's trademark. 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 <betano.studio> be transferred to the Complainant.

/Philippe Gilliéron/

Philippe Gilliéron

Sole Panelist

Date: August 28, 2024