

## **ADMINISTRATIVE PANEL DECISION**

Navasard Limited v. Mihaela Sinclair

Case No. D2024-0636

### **1. The Parties**

The Complainant is Navasard Limited, Cyprus, internally represented.

The Respondent is Mihaela Sinclair, Romania.

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

The disputed domain name <1xbet.money> is registered with Porkbun LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 12, 2024. On February 13, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 13, 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 (“Whols Privacy”) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 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 on February 14, 2024.

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 of the Complaint, and the proceedings commenced on February 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 14, 2024.

The Center appointed Anne-Virginie La Spada as the sole panelist in this matter on March 21, 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 a company named Navasard Limited involved in online sports betting under the 1XBET brand and based in Cyprus.

The Complainant is the owner of the following trademark registrations:

- European Union trademark registration No. 013914254 for 1XBET (& design), registered on July 27, 2015, in classes 35, 41, and 42
- European Union trademark registration No. 014227681 for 1XBET (word), registered on September 21, 2015, in classes 35, 41, and 42

The Complainant contends that its brand is recognized for online sports betting in Eastern Europe.

The disputed domain name was created on November 22, 2023.

The Complaint does not include any screenshot or other description of the webpage to which the disputed domain name resolved at the time of filing of the Complaint, but it seems that the Complainant considers that the matter is a case of passive holding in bad faith. The Center's case file includes a screenshot of a page with a message "Choto is verifying that you are human". The Panel observes that when one enters the disputed domain name in a web browser, the page included in the Center's case file is displayed for a few seconds, and then redirects to a website purporting to offer lotto services under the brand Lotto60.<sup>1</sup>

The Complainant sent an email to the Registrar on December 6, 2023, to report the abuse and to request the transfer of the domain name. The Registrar replied the same day and invited the Complainant to seek remedies through the relevant UDRP procedure.

#### **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 the disputed domain name is identical to its trademark for 1XBET.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name for the following reasons: (i) it is potentially illegally using the disputed domain name; (ii) it does not intend to make any legitimate use of the disputed domain name; (iii) it is not making any commercial or fair use of the disputed domain name.

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<sup>1</sup>Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.8.

Finally, according to the Complainant, the disputed domain name was registered in bad faith as the Respondent used the Complainant's mark in order to mislead potential clients of the Complainant. In such circumstances, the Complainant is of the view that passive holding of the disputed domain name amounts to use in bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

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

- (i) the domain name registered by the respondent 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 domain name; and
- (iii) the domain name registered by the respondent 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 that 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.

Based on the information submitted by the Complainant, the Complainant has not granted the Respondent authorization to use the disputed domain name. Moreover, there is no evidence indicating that the Respondent is commonly known by the disputed domain name.

Finally, the Respondent did not file a Response to the Complaint. The Panel may draw from the lack of a Response the inferences that it considers appropriate, according to the Rules, paragraph 14(b).

The Panel finds that 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 disputed domain name reproduces the Complainant's mark in its entirety. Therefore, the Panel finds it likely that the Respondent was aware of the Complainant's mark at the time of registration of the disputed domain name. The Respondent's reported location in Romania also falls within the geographic area within which the Complainant claims to be one of the most well-known operators of online sports betting, which reinforces the Panel's belief that the Respondent was likely aware of the Respondent when registering the disputed domain name. The Panel therefore holds that the disputed domain name was registered in bad faith.

As to the requirement of use in bad faith, the Panel notes that the Complainant considers the matter to be a case of passive holding, i.e. a case where the disputed domain name was not connected to an active website.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes that the Complainant has not provided evidence regarding the reputation of its trademark. However, prior UDRP panels have recognized the distinctive nature of the Complainant's trademark in its field of activity and, as stated in *Navasard Limited v. 胡雪 (Ni Cary)*, WIPO Case No. [D2024-0512](#) "[n]oting that the Mark does not correspond to a dictionary term and is known in the relevant industry, the Panel finds that the Respondent cannot credibly claim to have been unaware of the Mark. Panels have been prepared to infer under the circumstances that the respondent knew, or should have known of the complainant and that its registration would target a complainant's mark. [WIPO Overview 3.0](#), sections 3.2.2."

Further, the Panel notes that upon the filing of the Complaint, the Respondent appears to have engaged in the use of a privacy service to mask its details on the publicly available WhoIs, which may support an inference of bad faith. Following the Registrar's disclosure of the Respondent's details, it appears that the Complaint could be delivered at the street address mentioned in the contact details communicated by the Registrar, though no Response was filed rebutting any of the Complainant's contentions concerning the potential use of the disputed domain name for illegal use. That said, while this set of circumstances may

support a finding of bad faith regardless of the disputed domain name's non-use, it is not strictly necessary to decide whether those circumstances are a sufficient basis for a finding of passive holding in bad faith. Indeed, during the verification of the use of the disputed domain name, the Panel was redirected to a website offering betting services, i.e. services competing with the Complainant's services.

Noting in particular the general powers of a panel articulated inter alia in paragraphs 10 and 12 of the UDRP Rules, it has been accepted that a panel may undertake limited factual research into matters of public record if it would consider such information useful to assessing the case merits and reaching a decision. This may include visiting the website linked to the disputed domain name in order to obtain more information about the respondent or its use of the domain name. [WIPO Overview 3.0](#), section 4.8.

The use of the disputed domain name in connection with a website offering competing services supports a finding of use in bad faith as it is likely that the Respondent tried to attract consumers looking for the Complainant's services to its own website for commercial gain, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its web site (as contemplated in paragraph 4(b)(iv) of 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 <1xbet.money> be transferred to the Complainant.

*/Anne-Virginie La Spada/*

**Anne-Virginie La Spada**

Sole Panelist

Date: April 7, 2024