

ADMINISTRATIVE PANEL DECISION

Shop and Deliver Limited v. Fedorov Vladimir, NameSilo, LLC
Case No. D2025-0030

1. The Parties

The Complainant is Shop and Deliver Limited, Kenya, represented by Cliffe Dekker Hofmeyr Incorporating Kieti Law LLP, Kenya.

The Respondent is Fedorov Vladimir, NameSilo, LLC, Kazakhstan.

2. The Domain Name and Registrar

The disputed domain name <betika-kenya.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 6, 2025. On January 7, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On the same day, 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 (Unknown Respondent, Redacted for Privacy by NameSilo LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 10, 2025, 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 January 14, 2025.

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 January 16, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 5, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 7, 2025.

The Center appointed Reyes Campello Estebaran as the sole panelist in this matter on February 12, 2025. 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 private limited company incorporated in Nairobi, Kenya, that operates an online sports betting and casino platform under the brand BETIKA!.COM. The Complainant's platform further includes various online games.

The Complainant owns a trademark registration for its brand, namely the Kenya Trademark Registration No. 91436, BETIKA!.COM, figurative, registered on March 15, 2016, in Class 41, (hereinafter referred as the "BETIKA mark").

The Complainant further owns a domain name corresponding to its brand, namely the domain name <betika.com> that resolves to its gambling and gaming platform's website.

The disputed domain name was registered on March 20, 2024, and resolves to a website that offers sports betting, and casino services and mimics the Complainant's website. This website includes the BETIKA mark, with very similar graphic representation, at its heading and within its content, as well as a favicon consisting of a letter "B!" (with an exclamation symbol) in yellow, within a green square, identical to the Complainant's website favicon. The sections of the Respondent's website contain active links to third parties gambling and gaming websites, such as "www.16ninecasino40.com", it does not include information about its owner or that of the disputed domain name, and it does not include any "Terms & Conditions" or "Privacy" sections. The copyright of the site indicates "2025 © betika-kenya.com", and, at the bottom of the site after the copyright note, the website contains a text in small letters indicating, "The site betika-kenya.com is not related to the brand. Any images and information belong to their rightful copyright holder. The site betika-kenya.com does not accept payments and does not organize gambling".

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 disputed domain name is confusingly similar to its BETIKA mark, as it incorporates this trademark in its entirety followed by a geographical term ("-Kenya") that is related to the Complainant's location.

The Complainant further contends the Respondent has no rights or legitimate interests in the disputed domain name. "Betika" is a coined term registered and used by the Complainant since 2016 to identify its gambling and gaming platform in the same jurisdiction targeted by the Respondent (Kenya). The Respondent is not commonly known by the disputed domain name, has no authorization to use the BETIKA mark, and is not using the disputed domain name in connection with any bona fide offering of goods or services, nor is it making a legitimate noncommercial or fair use of the disputed domain name. The disputed domain name is used in connection to a competing website that mimics the Complainant's website to misleadingly divert consumers to other competing platforms and tarnish the Complainant's trademark.

The Complainant finally contends the disputed domain name was registered and is being used in bad faith. The Respondent's website mimics the Complainant's website and contains active links to third parties' competing websites (such as "www.1win.com"). The Respondent has intentionally attempted to attract and

divert, for commercial gain, Internet users to competitor's websites. The disputed domain name was registered and is being used to disrupt the Complainant's business in bad faith.

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed materials and allegations, and performing some limited independent research under the general powers of the Panel articulated, inter alia, in paragraph 10 of the Rules.

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, namely the BETIKA mark. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Panel assessment of identity or confusing similarity involves comparing the (alpha-numeric) domain name and the textual components of the relevant mark. To the extent that design (or figurative/stylized) elements, such as an exclamation symbol, the use of a hyphen, color or other features of a figurative mark, would be incapable of representation in domain names, these elements are largely disregarded for purposes of assessing identity or confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.10.

Furthermore, although the addition of other terms here, the geographical term "Kenya" separated by a dash from the word "betika", may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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.

Nothing in the record indicates the Respondent may have any rights or legitimate interests in the disputed domain name.

The Panel notes the term "betika-kenya" does not share any similarity with the Respondent's name revealed by the Registrar verification, and the Respondent is not located in Kenya. On the contrary, this term exactly coincides with the main element of the Complainant's trademark and the country where the Complainant is located and from which it operates.

The Panel has further corroborated through a search over the Global Brands Database that the Respondent does not own any registered trademark consisting of or including the terms "betika", "betika-kenya" or "Betika Kenya".¹

The Panel further notes the disputed domain name resolves to a website that impersonates the Complainant and generates a false affiliation with the Complainant's business and its BETIKA mark. In this respect, the Panel notes: (i) the Respondent's website includes the Complainant's trademark (or a very similar graphic representation of the same) at its heading and within its content; (ii) this website uses a favicon identical to the one used in the Complainant's website (a letter "B!" with exclamation symbol in yellow, within a green square); (iii) this website purportedly offers the same type of betting and gambling services, in which the Complainant and its business operates; (iv) the Respondent's website further mimics the Complainant's website reproducing the same sections, identical design, color combination, and general look and feel; and (iii) the Respondent's website does not prominently disclose its lack of relationship with the Complainant and its business.

The Panel finds the text included at the bottom of the site, after the copyright note, indicating "the site betika-kenya.com is not related to the brand" is not sufficiently clear and prominent. It does not clearly indicate a lack of relationship with the Complainant's business and its BETIKA mark, and it may easily go unnoticed by Internet users.

Furthermore, the Respondent's website contains active links to competing third parties' websites in the gambling and betting field, which cannot be considered a bona fide offering of goods or services under the Policy. The use of a confusingly similar domain name and a website that incorporates the Complainant's trademark at its heading and within its content to redirect Internet users to third parties' websites in direct competition with the Complainant, almost certainly for the Respondent's commercial gain, cannot confer rights or legitimate interests under the Policy. See, e.g., *Sfanti Grup Solutions v. Super Privacy Services LTD c/o Dynadot / Ion Danilov*, WIPO Case No. [D2022-1273](#).

The Panel finds the use of the disputed domain name indicates an intention to impersonate the Complainant and its business, with a copycat version of its official website, which constitutes an illegitimate activity that can never confer rights or legitimate interests on a respondent. Panels have held that the use of a domain name for illegal/illegitimate activity here impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

¹Noting 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 3.0](#), section 4.8.

Accordingly, 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 the term “betika” is not included in the English dictionary, and, according to the Complainant’s allegations, it is a coined term that has not relationship with the Respondent’s name.

The Panel further notes the extensive presence of the Complainant’s business in the Internet. The Panel has corroborated with various searches over the Internet the Complainant’s business and the BETIKA mark are at top positions of these searches.

The Panel finds such extensive Internet presence, together with the composition of the disputed domain name that incorporates the term “betika” and the country where the Complainant is located and from which it operates (Kenya), indicates, in the Panel’s view, the Respondent had in mind this company and the mark at the time of registration of the disputed domain name.

The disputed domain name contains the main elements of the BETIKA mark followed by the term “Kenya” (separated by a dash), which altogether represents the main element the Complainant’s trademark and its country of origin and location, and, as such, is closely related to the Complainant and its business. The disputed domain name therefore falsely generates an affiliation with the Complainant and its business. The use of a geographical term that corresponds to the Complainant’s location increases the risk of confusion or affiliation by Internet users, and, together with all other circumstances of this case, leads the Panel to consider the Respondent likely knew of the Complainant and its trademark and deliberately registered the disputed domain name in bad faith.

The Panel further finds the use of the disputed domain name reveals the intention to generate confusion or affiliation with the Complainant, its business and its BETIKA mark for a commercial gain and/or to impersonate the Complainant and its business to divert Internet users to competing third parties’ websites in a potential commercial fraud. The Respondent’s website mimics the Complainant’s official website and only contains a non-prominent and non-clear disclaimer at the bottom of the site in small letters, which may most probably go unnoticed by Internet users.

In cases where the overall circumstances of a case point to the respondent’s bad faith, as in the present case, the mere existence of a disclaimer cannot cure such bad faith. On the contrary, panels may consider the respondent’s use of a disclaimer as an admission by the respondent that Internet users may be confused. [WIPO Overview 3.0](#), section 3.7.

Therefore, the Panel finds the content of the Respondent’s website and the composition of the disputed domain name reveal an intention on the part of the Respondent of targeting the Complainant and its trademark in an effort to generate confusion or a false affiliation for commercial gain.

Furthermore, panels have held that the use of a domain name for illegitimate activity here, claimed impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Additionally, under these circumstances, the Panel finds the use of a proxy shield by the Respondent to shield its identity, as well as the failure of the Respondent to respond to the Complaint and to the factual allegations made by the Complainant, may properly be considered relevant as further factors affirming a finding of bad faith.

Therefore, 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 <betika-kenya.com> be transferred to the Complainant.

/Reyes Campello Estebarez/

Reyes Campello Estebarez

Sole Panelist

Date: February 25, 2025