

## **ADMINISTRATIVE PANEL DECISION**

**Batnesto Ltd v. Lenildo Nogueira, VICTORIA GAMES SOLUTIONS B.V.**  
**Case No. DIO2024-0036**

### **1. The Parties**

The Complainant is Batnesto Ltd, Cyprus, represented Šindelka & Lachmannová advokáti s.r.o., Czech Republic.

The Respondent is Lenildo Nogueira, VICTORIA GAMES SOLUTIONS B.V., Netherlands (Kingdom of the).

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

The disputed domain name <metbet.io> is registered with GoDaddy.com, LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 18, 2024. On November 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 18, 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 (Unknown/ Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 19, 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 November 24, 2024.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 November 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 16, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 18, 2024.

The Center appointed Adam Taylor as the sole panelist in this matter on December 30, 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**

Since 2012, the Complainant or its licensees have operated a sports betting website branded MELBET via a website at “www.melbet.com”, which currently has some 400,000 daily worldwide users. The Complainant has been active in Brazil since 2013.

The Complainant owns a number of registered trade marks for MELBET including Mauritius trade mark No. 34042/2023, registered on November 9, 2022, in classes 35, 41 and 42, and European Union trade mark No. 019060714, registered on November 9, 2024, in classes 9, 16, 21, 25, 28 and 30.

The disputed domain name was registered on March 16, 2023.

As of November 18, 2024, the disputed domain name resolved to a gambling website in Brazilian Portuguese that was branded with a “METBET” logo and was said to be operated by Cometa Gaming N.V., a company registered in Curaçao.

#### **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.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

##### **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 trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition<sup>1</sup>, ([“WIPO Overview 3.0”](#)), section 1.7.

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

The Panel finds the mark is recognisable 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.

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<sup>1</sup> Although [WIPO Overview 3.0](#) is directed to the Uniform Domain Name Dispute Resolution Policy (“UDRP”), given the similarity between the UDRP and the Policy, it is appropriate to have regard to these principles except to the extent that the Policy diverges from the UDRP.

A domain name that consists of a common, obvious, or intentional misspelling of a trade mark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. This stems from the fact that the domain name contains sufficiently recognisable aspects of the relevant mark.

[WIPO Overview 3.0](#), section 1.9. In the circumstances of this case, discussed further below, the Panel considers that the disputed domain name, which substitutes the letter “T” for the “L” in the Complainant’s mark, was likely intended as a misspelling of the Complainant’s mark.

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 recognised 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.

As to paragraph 4(c)(i) of the Policy, and as further discussed in section 6C below, the Panel considers that the Respondent has used the disputed domain name to intentionally attempt to attract, confuse and profit from Internet users seeking the Complainant’s goods and/or services. Such use of the disputed domain name could not be said to be bona fide.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

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

## **C. Registered or 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 or use of a domain name in bad faith.

In the present case, the Panel considers that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant’s trade mark in accordance with paragraph 4(b)(iv) of the Policy.

Not only does the disputed domain name comprise a name that is very similar to the Complainant’s distinctive mark, most likely intended as a misspelling thereof, but the Respondent has used the disputed domain name for gambling website, including sports betting, that targets Brazil, where the Complainant also operates, and is branded with a similar logo to that of the Complainant. In particular both logos use a similar type of font with each of the two components in different colour. Also, the horizontal “L” in the Complainant’s

“MELBET” logo extends slightly so that it overlaps with bottom left corner of the “B”, whereas the Respondent’s “METBET” logo includes a small flame device in exactly the same lower left position on the “B” image, creating a somewhat similar overall impression and reinforcing the likelihood that the Respondent’s logo was designed with the Complainant’s logo in mind.

It is reasonable to infer that the Respondent was intent on commercial gain.

Furthermore, the Respondent has not come forward to explain or defend its behaviour.

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, <metbet.io>, be transferred to the Complainant.

*/Adam Taylor/*

**Adam Taylor**

Sole Panelist

Date: January 13, 2024