

## **ADMINISTRATIVE PANEL DECISION**

Entain Operations Limited v. Annika Gerhardt  
Case No. DNL2024-0043

### **1. The Parties**

The Complainant is Entain Operations Limited, United Kingdom, represented by Stobbs IP Limited, United Kingdom.

The registrant of the disputed domain name is Annika Gerhardt, Germany, (the “Respondent”).

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

The disputed domain name <betcity-casino.nl> (the “Domain Name”) is registered with SIDN through Registrar.eu.

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 1, 2024. On November 1, 2024, the Center transmitted by email to SIDN a request for registrar verification in connection with the Domain Name.

On November 4, 2024, SIDN transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on November 4, 2024, providing the information disclosed by SIDN, and inviting the Complainant to amend the Complaint in this light. The Complainant filed an amended Complaint on November 8, 2024.

The Center verified that the Complaint as amended satisfies the formal requirements of the Dispute Resolution Regulations for .nl Domain Names (the “Regulations”).

In accordance with the Regulations, articles 5.1 and 16.4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 11, 2024. In accordance with the Regulations, article 7.1, the due date for Response was December 1, 2024. On November 5, and 26, 2024, the Respondent sent email communications to the Center.

The Center appointed Gregor Vos as the panelist in this matter on December 16, 2024. The Panel finds that it was properly constituted. The Panelist has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required to ensure compliance with the Regulations, article 9.2.

#### **4. Factual Background**

The Complainant is a company that offers online sports-betting services in many jurisdictions, including the Dutch betting and gambling market.

The Complainant is the owner of inter alia European Union Trademark registration with No. 018983969 for the mark BETCITY, registered on June 6, 2024 (the "Trademark"). Also, the Complainant, through its parent company, operates the domain name <betcity.nl> that was registered on October 22, 2019.

The Domain Name was initially registered on October 4, 2023, and was acquired by the Respondent on October 7, 2024, as informed by SIDN. At the time of filing the Complaint, the Domain Name resolved to a website on which the Complainant's Trademark is prominently depicted and on which the Respondent appears to impersonate the Complainant and its official website.

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

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

The Complainant contends that it has satisfied each of the elements required under the Regulations for a transfer of the Domain Name.

Notably, the Complainant first contends that the Domain Name is confusingly similar to the Trademark, with the mere addition of the country-code Top-Level Domain <.nl> and the descriptive term "casino".

Second, the Complainant states that the Respondent has no rights or legitimate interests in the Domain Name. The Respondent has never received authorization from the Complainant to use the Trademark in the Domain Name, and the Respondent is not commonly known as "BETCITY-CASINO". There is no plausible legitimate interest from the Respondent because the Respondent appeared to mimic the official website of the Complainant on the website to which the Domain Name resolved.

Finally, according to the Complainant, the Respondent was aware of the Trademark when registering the Domain Name and is using the Domain Name to confuse potential consumers and to mislead Internet users. Also, the Respondent tries to impersonate the Complainant by including the Trademark on the website to which the Domain Name resolves and by mimicking the official website of the Complainant.

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

The Respondent did not reply to the Complainant's contentions. On November 5, and 26, 2024, the Respondent sent email communications to the Center stating that the Domain Name "doesn't violate any trademarks or laws".

#### **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 Trademark and the Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)),<sup>1</sup> section 1.7.

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

The entirety of the Trademark is reproduced within the Domain Name. Accordingly, the Domain Name is confusingly similar to the Trademark for the purposes of the Regulations. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, the term "casino", 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 Domain Name and the Trademark for the purposes of the Regulations. [WIPO Overview 3.0](#), section 1.8.

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

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

Article 3.1 of the Regulations 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 a proceeding under the Regulations 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 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 Domain Name such as those enumerated in the Regulations or otherwise.

Further, Panels have held that the use of a domain name for illegitimate activity, here claimed impersonation 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 Regulations has been established.

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

The Panel notes that, for the purposes of article 2.1(c) of the Regulations, article 3.2 of the Regulations 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.

Article 3.2. of the Regulations sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered or used in bad faith, but other circumstances may be relevant in assessing

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<sup>1</sup> Given that the Regulations is based largely on the UDRP ("Uniform Domain Name Dispute Resolution Policy"), the Panel considers UDRP precedent, and thus [WIPO Overview 3.0](#), to be relevant to the present proceeding and will refer to it where appropriate (see, e.g., *Action Bolaget Electrolux v. Beuk Horeca B.V.*, WIPO Case No. [DNL2008-0050](#)).

whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

In the present case the Complainant's Trademark registration, as well as the further trademarks referred to in the Complaint, do not predate the initial registration date of the Domain Name, but they do predate the acquisition date of the Domain Name by the Respondent. In this regard, panels have held that the date a respondent acquired the Domain Name is used to assess bad faith, see *Forbo Management SA v. AG van Oosten Holding*, WIPO Case No. [DNL2023-0013](#).

In the present case, the Domain Name resolved to a website on which the Trademark is prominently displayed and on which the Respondent impersonated the Complainant and its official website. Further, the Complainant has shown that it has used the Trademark extensively in the Dutch market and the available case record shows that the Complainant has built up a substantial reputation over the last decade.

The Panel finds that in light of these specific circumstances, which have not been rebutted by the Respondent, it is not conceivable that the Respondent chose the Domain Name without knowledge of the Complainant's activities, the brand BETCITY under which the Complainant is doing business, and the domain name <betcity.nl> of the Complainant. Also, Panels have held that the use of a domain name for illegitimate activity, here claimed impersonation constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Further, the Domain Name incorporates the Trademark BETCITY of the Complainant in its entirety with the addition of the term "casino" which described the Complainant's activities. This carries a risk of implied affiliation and that the Respondent has not put forward any evidence of any conceivable good faith registration or use of the Domain Name.

The Panel finds that the Complainant has established the third element of the Regulations.

## 7. Decision

For all the foregoing reasons, in accordance with articles 1 and 14 of the Regulations, the Panel orders that the Domain Name <betcity-casino.nl> be transferred to the Complainant.

/Gregor Vos/

**Gregor Vos**

Panelist

Date: December 30, 2024