

## **ADMINISTRATIVE PANEL DECISION**

Merryvale Limited v. Olga SHapovalova

Case No. DPW2022-0001

### **1. The Parties**

Complainant is Merryvale Limited, Guernsey, represented by Herzog, Fox & Neeman, Israel.

Respondent is Olga SHapovalova, Russian Federation.

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

The disputed domain name <bet-way.pw> (hereinafter the “Disputed Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 30, 2022. On August 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On September 1, 2022, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on September 8, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on September 12, 2022.

The Center verified that the Complaint together with the 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 Respondent of the Complaint, and the proceedings commenced on September 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on October 4, 2022.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on October 27, 2022. 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**

Complainant is a member of Super Group, which is the holding company of Betway and Spin, two global online sports betting and gaming companies. The member companies of Super Group have operated a number of online gaming websites under the mark BETWAY, starting in 2006. This includes the domain name <betway.com>. In 2021, the website located at “www.betway.com” had over 1.98 million unique users, and currently has a monthly average of 489,808 registered and active customers accessing the Betway gaming services. Additionally, Complainant owns multiple trademark registrations for BETWAY, including registrations in the European Union (Reg. No. 004832325; Registered January 26, 2007), Russian Federation, United Kingdom, Canada, Argentina, Brazil, Mexico, South Africa, Australia, India, New Zealand, and China (the “BETWAY mark”).

Respondent registered the Disputed Domain Name on December 9, 2021, long after Complainant registered its BETWAY mark. The webpage associated with the Disputed Domain Name resolves to a webpage offering gaming and gambling services similar to those offered by Complainant. The webpage also replicates the look and feel of Complainant’s website, including featuring Complainant’s BETWAY mark and Complainant’s BETWAY logo.

#### **5. Parties’ Contentions**

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

Complainant contends that its multiple international trademark registrations establish its rights in the BETWAY trademark and that the Disputed Domain Name is confusingly similar to its registered mark. Complainant further alleges that the addition of a hyphen between “bet” and “way” does not create an impression that is distinct from the BETWAY mark. Complainant states that through extensive use and marketing, the BETWAY mark is well known.

Complainant claims that Respondent has no rights or legitimate interests in the Disputed Domain Name, as Complainant has not authorized Respondent to use the BETWAY mark. Complainant alleges that Respondent’s use of Complainant’s mark on a webpage offering gaming and gambling services is evidence that Respondent is attempting to attract, for commercial gain, Internet users to the Disputed Domain Name, specifically by creating a false association between the Disputed Domain Name and Complainant.

Complainant contends that Respondent registered and continues to use the Disputed Domain Name in bad faith. Specifically, Complainant states that Respondent is trying to attract Internet users to its website for commercial gain by misleading them to believe that the Disputed Domain Name belongs to Complainant. Complainant also alleges that Respondent’s registration of the Disputed Domain Name is evidence of bad faith because it incorporates a well-known mark.

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

Respondent did not reply to Complainant’s contentions.

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

##### **A. Identical or Confusingly Similar**

The Panel finds that Complainant’s trademark registrations establish that it has rights in the BETWAY mark. The Panel further finds that, because the Disputed Domain Name incorporates Complainant’s BETWAY mark entirely, it is confusingly similar to Complainant’s registered mark. Respondent’s addition of a hyphen between “bet” and “way” in the Disputed Domain Name does not prevent a finding of confusing similarity. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview](#)”).

[3.0](#)”), section 1.9; see also *Fort Knox National Company v. Ekaterina Phillipova*, WIPO Case No. [D2004-0281](#), (transferring the domain name <true-pay.com> to complainant based on its trademark registration for TRUEPAY). Complainant has satisfied paragraph 4(a)(i) of the Policy.

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

Complainant has presented a *prima facie* case for Respondent’s lack of rights or legitimate interests in the Disputed Domain Name, which Respondent has not rebutted. Complainant has not authorized Respondent to use its BETWAY mark and there is no evidence that the Respondent is commonly known by the Disputed Domain Name within the meaning of paragraph 4(c)(ii) of the Policy.

Additionally, Respondent’s replication of the look and feel of Complainant’s website and offering of gaming and gambling services on the website associated with the Disputed Domain Name, is evidence that Respondent has engaged in a dishonest impersonation of Complainant with the intent to mislead Internet users. See *reStore, Limited Liability Company v. Xramova V Tatyana*, WIPO Case No. [D2021-0421](#) (“By reproducing the Complainant’s trademark, the Complainant’s domain name and the Complainant website’s color scheme, the Respondent’s website attempts to pass off as the Complainant or its division and to profit from such passing off”). Because Respondent is passing off its services as those of Complainant, there is no *bona fide* offering of goods or services, or legitimate noncommercial or fair use of the Disputed Domain Name, within the meaning of paragraphs 4(c)(i) and (iii) of the Policy. See [WIPO Overview 3.0](#), section 2.13.1 (“the use of a domain name for illegal activity (e.g., [...] impersonating/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent”).

The Panel finds that Respondent does not have rights or legitimate interests in the Disputed Domain Name and that Complainant has satisfied paragraph 4(a)(ii) of the Policy

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

The Panel finds that Respondent registered and used the Disputed Domain Name in bad faith. The fact that the Disputed Domain Name resolves to a website that has the same look and feel as Complainant’s website, and offers services competitive with Complainant’s services, leads the Panel to conclude that the registration and use of the Disputed Domain Name are in bad faith. By copying the look and feel of Complainant’s website in order to impersonate Complainant, it is clear that Respondent was aware of and targeted Complainant in bad faith. See *Cdiscount v. Contact Privacy Inc. Customer 0155775631 / Jaouad Jermoune, cdiscount1*, WIPO [D2019-3003](#) (“The imitation of the Complainant’s web design, color scheme, logos and ‘About Us’ page at the website that the disputed domain name resolve to, seeks to target the CDISCOUNT trademark and confirms the Panel’s latter finding [of bad faith].”). See also *Elliott Investment Management L.P. v. Domains By Proxy, LLC, DomainsByProxy.com / Murat Akbala*, WIPO Case No. [D2022-2699](#).

## **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, <bet-way.pw>, be transferred to Complainant.

*/Lawrence K. Nodine/*

**Lawrence K. Nodine**

Sole Panelist

Date: November 10, 2022