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NAVASARD LIMITED, Cyprus vs Privacy Guardian, Phoenix AZ, US
INDRP Case no. 1858
Arbitrator: Mr. P.K.Agrawal

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AWARD

1. The Parties

The Complainant is NAVASARD LIMITED, Agias Eirinis, 16, Flat/Office 101, Aglantzia, 2102, Nicosia, Cyprus.

The Respondent is Privacy Guardian, PrivacyGuardian.org llc, 1928 E. Highland Ave. Ste F104, PMB# 255, Phoenix AZ- 85016, US.

2. The Domain Name and Registrar

The disputed domain name is <1xbetonline.in>. The said domain name is registered with the Registrar – NameSilo, LLC (IANA ID: 1479). The details of registration of the disputed domain name (as per WHOIS details relevant to the Complaint) are as follows:

- a. Domain ROID: DC66271BDEB964AD69488C71DEECDE24E-IN
- b. Date of creation: May 03, 2021.
- c. Expiry date: May 03, 2025.

3. Procedural History

- (a) A Complaint dated 6.05.2024 by the Complainant has been filed with the National Internet Exchange of India (NIXI). The Complainant has made the registrar verification in connection with the domain name at issue. The print outs confirmed that the Respondent is listed as the registrant and provided the contact details for the administrative, billing, and technical contact. The Exchange verified that the Complaint satisfied the formal requirements of the Indian Domain Name Dispute Resolution Policy (INDRP) (the "Policy") and the Rules framed thereunder.
- (b) The Exchange appointed the undersigned Mr. P.K.Agrawal, Former Addl. Director General in the Government of India, as the sole Arbitrator in this matter. The Arbitrator finds that he has been properly appointed. The Arbitrator has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Exchange.
- (c) In accordance with the Policy and the Rules, the copies of complaint with annexures were sent by the National Internet Exchange of India on



15.04.2024 by email. The Arbitrator served the Notice under Rule 5(C) of INDRP Rules of procedure along-with copies of complaint and annexures to the parties through email on 15.04.2024. The Complainant was advised to serve copies of the domain complaint along with complete set of documents in soft copies as well as in physical via courier or post to the Respondent Registrant at the address provided in the WHOIS details of the domain. The Respondent was given 14 days' time by the Arbitrator through Notice dated 15.04.2024 for reply. The Notice email was served upon the Respondent email id given in WHOIS details, which was delivered. The Complainant communicated the complaint with annexures to the Respondent through email dated 20.5.2024 and also informed that they will be serving the hard copy/ physical copy to the address mentioned in the whois data page of the said domain.

On 20.5.2024, one person named "Radoslaw Nowak" wrote an email from his email id - **Владислав Мортин** <mortinweiser@gmail.com> that - "Hello, thank you for your submission, I have read your document and would like to give feedback. Ask me to correct if necessary to do it not by mail and file a counter appeal in my defense. I would like to inform you that I officially provide 1xbet marketing services and have the right to use the 1xbet trademark for the 1xbetonline.in domain. This claim seems to be an erroneous misunderstanding as I have been working with this brand for more than 2 years. I am currently in contact with our manager at 1xbet and will provide you with confirming documents shortly. Thank you for your patience."

After a reminder email was sent by the Arbitrator, "Radoslaw Nowak" through email dated 31.5.2024, informed as follows- "Please be advised that Privacy Guardian, the company named as a defendant in the lawsuit, is merely a domain registrar. I am the rightful owner of the website www.1xbetonline.in. Attached herewith you will find the relevant evidence of my ownership. As mentioned in my previous post, I have been officially cooperating through the affiliate program <https://1xpartners.com/> with the 1xbet brand for more than two years. There have been no bans on the use of the 1xbet brand, the site is verified by the affiliate program and has not had a single complaint in all that time. At the moment I am in contact with our manager at 1xbet and I am waiting for his response on this situation in order to resolve this issue promptly.

Thank you for your attention to this matter and I would like to inform you that I will fully cooperate in this matter.

Best regards, Radoslaw Nowak."

The Complainant was directed to submit his reply to the above message.

The Complainant relied on 3.6.2024 through email as follows:

“In response to the submissions made by the Respondent vide email dated 31.05.2024, we wish to state that the Respondent has neither filed any documents supporting his claims till date nor do we have any clarifications as to the position of the Respondent. Hence, the complaint shall be decided in favour of the Complainant basis the submissions made duly by us along with supporting documents.”

Meanwhile, the Complainant had pointed out through email dated 30.5.2024 that the Complainant served the physical copy of the complaint to the Respondent through India Post – EMS document Consignment no. ET048202850IN dated 21.5.2024. In view of the aforesaid, the Complaint and its annexures may be regarded to have been served to the Respondents as per Arbitration and Conciliation Act, 1996 and INDRP rules. Since the Respondent, to whom Notice was served, has not responded and the third person, who intervened, has not presented any grounds in his defence, the present proceedings have to be conducted *ex parte* as per the Arbitration and Conciliation Act, 1996 and the .IN Domain Name Dispute Resolution Policy and the Rules of Procedures framed there under.

4. Factual Background

The Complainant in this administrative proceeding is Navasard Limited a limited liability company, formed under the laws of Cyprus bearing registration number HE341366, having its principal place of business at Agias Eirinis, 16, Flat/Office 101, Aglantzia, 2102, Nicosia, Cyprus. The Complainant is an internationally recognised online sports betting platform that was established in the year 2006. Through its betting services available in its official websites and applications, the players/users can place bets on thousands of events in over 60 sports every day. The users can bet on thousands of sporting events or play different online games from top providers, and the Complainant's website and app are available in 70 languages.

The Complainant was subsequently incorporated as a limited liability company in the Europe on 9th March 2015 and has a wealth of experience working with major sporting organizations and some of the world's top football clubs, including Serie A, the CAF, FC Barcelona, Olympique Lyonnais, LOSC Lille, PSG, and other famous sports brands

ly

and organizations.

The Complainant registered the official domain www.1xbet.com (“Complainant’s Webpage”) way back in 2006 and has been using the trademark 1xbet since then.

The Complainant is the proprietor of the trademark “1XBET” (“Subject Mark”) and the list of a few of trademark registrations held by the Complainant is as below:

The Complainant also has a few of the domain names containing the trademarks, which are listed below:

TRADEMARK	CLASSES	COUNTRY	REGISTRATION NUMBER	STATUS
1XBET (word mark)	35,41, 42	European Union	014227681	Registered
1XBET (logo)	41,42	European Union	017517327	Registered
1XBET (logo)	35,41,42	Madrid Application designating 84 countries including India	1673396	Pending Registration in India
1XBET	41,42	Madrid	1672896	Pending Registration India

S.NO.	DOMAIN NAME	DATE OF CREATION
1.	1xbet.com	01-09-2006
2.	1xbet.co	27-07-2016
3.	1xbet.network	19-06-2023
4.	1xbet.soccer	25-01-2023
5.	1xbet.host	20-05-2023
6.	1-xbet.in	26-02-2021
7.	1xbet.exchange	23-05-2022

8.	1xbet.direct	05-09-2023
9.	1xbet.bot	09-11-2023

Respondent's Identity and Activities

The identity and activities of the Respondent are not known. The Respondent, to whom Notice was served, has not responded to the Complaint and the third person, who intervened, has not presented any grounds in his defence.

5. Parties Contentions

A. Complainant

The Complainant contends that each of the elements specified in the Policy (INDRP) are applicable to this dispute.

In relation to **element (i)**, the Complainant submits that the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights. The Complainant argues that:

- (a) The Complainant owns and uses the trademark "1xbet" in connection with its business since 2006. The Complainant has been using the Subject Mark continuously and extensively in respect of its business and services worldwide including in India. Due to its long and continuous use of the Subject Mark for almost two decades now, the same has become a well-known mark and public associate the mark "1xbet" exclusively with the Complainant and no one else. The Complainant has taken several measures to publicise the Subject Mark widely in India in the recent past and all such publicity materials are available for general access to all the internet users globally including India, owing to which the public in India recognise the Subject Mark only with the Complainant and no one else.
- (b) Considering that cricket is a well-recognised sports in India and the said sport has a huge fanbase in India per se, the Complainant has invested huge sums of money in publicising its business by sponsoring various international cricket tournaments and also associating with various international cricketers as its brand ambassadors in order to promote its business and the Subject Mark. All these evidence that the Subject Mark has acquired distinctiveness owing to its continuous usage and has attained a secondary meaning amongst the public in relation to the services of the Complainant.



- (c) Upon consideration of all of the above, in accordance with the Paragraph 4 (a) of the Policy and Paragraph 4(b) (vi) of the Rules of Procedure, it is evident that the Complainant has rights over the Subject Mark and the Disputed domain name is identical or confusingly similar to the Subject Mark, thereby satisfying the threshold requirement of the INDRP rules for filing of the case. The Disputed Domain name contains the Subject Mark in entirety along with a non-significant element "online" and even though the Disputed Domain Name, differs from the Subject Mark of the Complainant by the addition of a generic and common word, i.e. "online", it does not serve sufficiently to distinguish or differentiate the Disputed Domain Name from the Complainant's Subject Mark. Precedents have shown that a domain name is identical to a trademark when the domain name contains or is confusingly similar to the trademark, regardless of the presence of other words in the domain name (Amazon Technologies, Inc. v. Jack Worli INDRP Case No.868). Hence, it is evident that the Disputed Domain Name is confusingly similar to the Subject Mark of the Complainant.
- (d) It is to be noted that even under the Uniform Domain Name Dispute Resolution Policy (UDRP), which governs the disputes in relation to gTLD's, several panel decisions also uphold the principle that mere addition of common or generic terms in domain name along with trademarks in which a complainant has rights are held to be "cybersquatting". Considering the fact that the INDRP also is based on the similar principles as that of the UDRP the same yardstick can be applied to INDRP disputes such as the instant complaint. At this juncture, it is also pertinent to note that the Complainant has taken UDRP actions against various cyber squatters and has been successful in all such actions. At this juncture it is also important to place on record that the Complainant has also been successful in the INDRP action initiated by it against the domain name "1-xbet.in", the award of which is enclosed with the Complaint.
- (e) All of the above indicates the pro-active measures taken by the Complainant to consistently protect its Subject Mark and the success streak of the Complainant as well considering the legitimate rights of the Complainant in the Subject Mark. It is asserted that the usage of the generic and common word "online" as a suffix and as part of the disputed domain name along with the word "1xbet" does nothing to differentiate the disputed domain name from that of the Complainant's trademark and various other domain names held by the Complainant containing the word and trademark "1xbet".



Accordingly, the Complainant contends that the first condition that Respondent's domain name is identical or confusingly similar to a name, trademark, or service mark in which the Complainant has rights, as per Paragraph 4 (a) of the Policy has been satisfied.

In relation to **element (ii)**, the Complainant contends that the Respondent does not have any right or legitimate interest in <1xbetonline.in>. The Complainant submits that:

- (a) On a perusal of the Whois data page of the Disputed Domain Name, it is seen that the Disputed Domain had been registered on 03rd May 2021 wherein the Registrant details are privacy redacted. It is hereby placed on record that the Disputed Domain Name resolves to an active webpage, where the Respondent is purportedly operating an online sports betting site under the Subject Mark of the Complainant which is strikingly similar in terms of its trade dress, get up and user interface to that of the Complainant's Webpage.
- (b) The word "1xbet" is a coined word and as such it is not one that traders would legitimately choose unless the sole purpose is to create an impression of an association with the Complainant who is the registered proprietor of the Subject Mark and has been using the Subject Mark for more than a decade. In addition, by virtue of its long-term use, the Subject Mark has attained a status of well-known trade mark in the online betting domain space and has been adopted by the Respondent merely to take a piggy back ride on the goodwill and reputation acquired by the Complainant in relation to the Subject Mark over the years. Further there is no evidence to show that the Respondent has trademark rights corresponding to the Disputed Domain Name.
- (c) The Disputed Domain Name contains the Subject Mark and the business name of Complainant in entirety and the Complainant states that it has not licensed or otherwise permitted the Respondent to use its Subject Mark or to apply for or use any domain name incorporating the Subject Mark and hence the Respondent has no rights in respect of the Disputed Domain Name. Further, there is no evidence to suggest that the Respondent is commonly known by the Disputed Domain Name.
- (d) The Complainant further wishes to state that the Respondent does not have legitimate interest in the disputed domain name for the reasons summarised below:
 - (i) The content of the Disputed Domain in itself is plagiarised and infringes the proprietary rights of the Complainant as the look and feel of the Disputed Domain is confusingly similar to the Complainant's Webpage content. The Respondent has intended to

divert the internet traffic to the Disputed Domain and unduly enrich itself by riding upon the goodwill of the Complainant and by sailing as close as possible to the trade name and Subject Mark of the Complainant.

- (ii) Further, the Disputed Domain Name contains contact details/ email addresses which belong to the Complainant and have been merely copied from the Complainant's Webpage. It is pertinent to note that all the email addresses provided by the Respondent for contact/ support purposes are email extensions of .com which evidently indicates that the Respondent is illegally attempting to pass off the Disputed Domain as that of the Complainant's Webpage which has a gTLD extension of .com.
 - (iii) Further, upon clicking on the "Registration" option on the Disputed Domain Name, the page is redirected to a third-party website "1x-bet.in" which contains terms and conditions which are copies from the Complainant's Webpage and also having reference to the Complainant's Webpage.
- (e) From the aforementioned it is clear that there is no bonafide offering of services by the Respondent, but rather involved in passing off the services of the Respondent as that of the Complainant by riding on the goodwill of the Complainant that it has carefully garnered over a decade. The Respondent is not making a legitimate non-commercial or fair use of the Disputed Domain Name, but rather using it with a malafide intent of commercial gain to misleading and divert consumers or to tarnish the trademark or service mark at issue. It is evident from the aforementioned submissions that the Respondent's intent is to unjustly enrich through the well-known status of the Subject Mark of the Complainant.

Based on the above-mentioned arguments, the Complainant argues that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name, as per Paragraph 4 (b) of the Policy.

Regarding the **element (iii)**, the Complainant contends that the Domain Name has been registered and used in bad faith for the following reasons:

- (a) The Subject Mark of the Complainant "1xbet" is a coined word that is distinctive and has acquired a strong reputation and goodwill over the years globally considering it is an internationally available service having players and users all over the world. It is also not possible to conceive of a plausible situation in which the Respondent would have

been unaware of the distinctiveness and strong reputation of the Complainant's Subject Mark "1xbet". The contents of the webpages in the Disputed Domain Name make it abundantly clear that the Respondent was very well aware of the Complainant and its service offerings and hence indicative of the fact that the Disputed Domain Name was registered in bad faith and also being used in bad faith by the Respondent. Complainant relies on *Societe des Produits Nestle S.A. v Dotpe Pvt. Ltd* (Case no. INDRP Case no. 1778/2023) wherein the Panel held that where the sole purpose of the respondent is to create confusion in mind of ordinary internet users, it is indicative of bad faith registration. Further, Complainant relies on *New cross healthcare solutions ltd. v. Amelia Gibbs* (INDRP Case No. 1798/2024) wherein the Panel held that "the intent of the respondent to profit from the reputation of the complainant's mark's/domain is definitely a bad faith registration use".

- (b) The Respondent has intentionally attempted to confuse Internet users and attract them to the Disputed Domain for commercial gain by creating the content of the Disputed Domain identical or confusingly similar to the Complainant's Webpage. Reference in this regard is to *Mattel Inc. v. Ria Sardana* (INDRP Case no. 1780/2023) wherein bad faith was established through intentional diversion of internet traffic to respondent's site and whereby respondent was also guilty of trademark infringement and passing off.
- (c) Considering that the Respondent has registered the Disputed Domain solely to pass-off its services as that of the Complainant, it is also likely that the unlawful adoption of the Disputed Domain Name by the Respondent would result in the dilution of the Complainant's Subject Mark "1xbet". The illegal adoption of the Disputed Domain name is causing irreparable damage and injury to the Complainant's reputation and goodwill which cannot be ascertained and/or quantified due to the intangible nature of goodwill. Further, it is an established principle that a domain name adopted by the complainant is entitled to equal protection against passing off as in the case of a trademark. Reliance is placed upon the judgments in *Yahoo! Inc. vs Akash Arora & Anr.* (78 (1999) DLT 285); and *Rediff Communication Ltd Vs. Cyberbooth and Anr* AIR 2000 AIR Bom.
- (d) Considering that the Disputed Domain Name is held by the Respondent to misleadingly attract internet traffic by creating a false impression of a connection between the Disputed Domain and the Complainant, the present use of the Disputed Domain itself constitutes a threatened abuse hanging over the head of the Complainant as it is used for illegal and unlawful purposes to deceive the users and

potentially dupe them of their monies through the scam website. Reference in this regard is drawn to Massachusetts Financial Services Company v SI Mandowara, (INDRP Case No. 1808/2024) wherein Panel observed that “act of the respondent registering the impugned domain name WWW.MFS.NET.IN incorporating identical trademark as that of the complainant’s registered mark “MFS” is a malafide attempt on its part to scam innocent members of the public and make illegal economic gains and profits by misusing and free riding on the goodwill and reputation associated with the registered and known trademark of the complainant”. Reliance is also placed on M/s. Dropbox, Inc. vs. M/s Kristina Ivanova (INDRP Case no. 1807/2024). Thus, from the above, it is established that the Respondent has intentionally attempted to attract Internet users to the Disputed Domain Name by creating a likelihood of confusion with the Complainant’s Subject Mark as to the source, sponsorship, affiliation, or endorsement of the Disputed Domain and hence the registration and the usage of the Disputed Domain Name is bad faith.

In view of the aforesaid, the Complainant submits that the disputed domain name has been registered and is being used in bad faith, and that paragraph 4(c) of the INDRP is satisfied.

B. Respondent

The Respondent, to whom Notice was served, has not responded to the Complaint and the third person, who intervened, has not presented any grounds in his defence.

6. Discussion and Findings

The Rules instruct this arbitrator as to the principles to be used in rendering its decision. It says that, “a panel shall decide a complaint on the basis of the statements and documents submitted by the parties in accordance with the Policy, the Arbitration and Conciliation Act, 1996, the Rules and any rules and principles of law that it deems applicable”.

According to the Policy, the Complainant must prove that:

- (i) The Registrant’s domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights;



- (ii) The Registrant's has no rights or legitimate interests in respect of the domain name that is the subject of Complaint; and
- (iii) The Registrant's domain name has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain name <1xbetonline.in> was registered by the Respondent on May 03, 2021.

The Complainant is an owner of the registered trademark 1XBET for the last many years. The Complainant is also the owner of the similar domains as referred to in the Complaint. These domain names and the trademarks have been created by the Complainant much before the date of creation of the disputed domain name by the Respondent. In the present case the disputed domain name is <1xbetonline.in>. Thus, the disputed domain name is very much similar to the name, activities and the trademark of the Complainant.

The Hon'ble Supreme Court of India has held that the domain name has become a business identifier. A domain name helps identify the subject of trade or service that an entity seeks to provide to its potential customers. Further that, there is a strong likelihood that a web browser looking for 1XBET products would mistake the disputed domain name as of the Complainant.

In the case of *Wal Mart Stores, Inc. v. Richard MacLeod*, (WIPO Case No. D2000-0662) it has been held that "When the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name" it is identical or confusingly similar for purposes of the Policy.

Therefore, I hold that the domain name <1xbetonline.in> is phonetically, visually and conceptually identical or confusingly similar to the trademark of the Complainant.

B. Rights or Legitimate Interests

The Respondent may demonstrate its rights to or legitimate interest in the domain name by proving any of the following circumstances:

- (i) before any notice to the Registrant of the dispute, the

- Registrant's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the Registrant (as an individual, business or other organization) has been commonly known by the domain name, even if the Registrant has acquired no trademark or service mark rights; or
 - (iii) The Registrant is making a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

In Case No. INDRP/776, *Amundi v. GaoGou*, the arbitration panel found that the Complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the Respondent carries the burden of demonstrating rights or legitimate interests in the domain name. If the Respondent fails to do so, the Complainant is deemed to have satisfied paragraph 4 (II) of the INDRP Policy.

There is no evidence to suggest that the Respondent has been known by the disputed domain name anywhere in the world. The name of the Registrant / Respondent is not 1XBET as per WHOIS details. Based on the evidence adduced by the Complainant, it is concluded that the above circumstances do not exist in this case and that the Respondent has no rights or legitimate interests in the disputed domain name.

Further, the Complainant has not consented, licensed, or otherwise permitted the Respondent to use its name or trademark 1XBET or to apply for or use the domain name incorporating said trademark. The domain name bears no relationship with the Registrant. Further that, the Registrant has nothing to do remotely with the business of the Complainant.

As has been contended by the Complainant, the Respondent is not making a legitimate, fair or *bona fide* use of the said domain name for offering goods and services. The Respondent registered the domain name for the sole purpose of creating confusion and misleading the general public.

I, therefore, find that the Respondent has no rights or legitimate interests in the domain name <1xbetonline.in> under INDRP Policy, Para- 4(ii).

C. Registered and Used in Bad Faith



Any of the following circumstances, in particular but without limitation, shall be considered evidence of the registration or use of the domain name in bad faith:

- (i) circumstances indicating that the Registrant has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the Complainant who bears the name or is the owner of the trademark or service mark, or to a competitor of that Complainant, for valuable consideration in excess of the Registrant's documented out of pocket costs directly related to the domain name; or
- (ii) the Registrant has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Registrant has engaged in a pattern of such conduct; or
- (iv) by using the domain name, the Registrant has intentionally attempted to attract the internet users to the Registrant's website or other on-line location, by creating a likelihood of confusion with the Complainant's name or mark as to the source, sponsorship, affiliation, or endorsement of the Registrant's website or location or of a product or service on the Registrant's website or location.

The contention of the Complainant is that the present case is covered by the circumstances mentioned herein above. There are circumstances indicating that the Respondent has intentionally attempted to attract, for commercial gain, internet users to its web site, by creating a likelihood of confusion with the Complainant's mark. It may also lead to deceiving and confusing the trade and the public.

In WIPO Case No. D2007-1695, Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe - "Respondent's use of a domain name confusingly similar to Complainant's trademark for the purpose of offering sponsored links does not of itself qualify as a bona fide use."

The circumstances as evident from the foregoing paragraphs lead to the conclusion that the domain name in dispute was registered and used by the Respondent in bad faith.



7. Decision

In light of the foregoing findings, namely, that the domain name is confusingly similar to the trademark in which the Complainant has rights, that the Respondent has no rights or legitimate interests in respect of the disputed domain name, and that the domain name was registered in bad faith and is being used in bad faith, it is clear beyond doubt that the Respondent has violated the provisions of Rule-3 of the Policy. Therefore, in accordance with the Policy and the Rules, the Arbitrator orders that the domain name <1xbetonline.in> be transferred to the Complainant.

No order to the costs.



Prabodha K. Agrawal

Sole Arbitrator

Dated: 4th June, 2024

