

.IN REGISTRY
(NATIONAL INTERNET EXCHANGE OF INDIA)
.IN Domain Name Dispute Resolution Policy (INDRP)

Disputed Domain Name: www.l-xbet.in

Dated: 11th January 2022

IN THE MATTER OF:

Navasard Limited

16 Agias Eirinis,

Office 101, Aglantzia,

2102 Nicosia, Cyprus

..... Complainant

Vs.

REDACTED FOR PRIVACY

..... Respondent

1. Parties

- 1.1. The Complainant in the arbitration proceeding is Navasard Limited, having address at 16 Agias Eirinis, Office 101, Aglantzia, 2102 Nicosia, Cyprus. The Complainant's authorised representative is Georgios Georgiadis
- 1.2. The Respondent in this administrative proceeding is Redacted for Privacy as per the registrar's website <https://www.namecheap.com/domains/whois> (as per **Annexure 3** of the Complaint). Registrant has registered the disputed domain name with NameCheap, Inc.

2. **The Dispute-** The domain name in dispute is “www.l-xbet.in” registered by the Respondent on 26th Feb., 2021. According to the .IN ‘Whois’ search, the Registrar of the disputed domain name is Namecheap, Inc.

3. Important Dates

S. No	Particulars	Dates (All Communication done in electronic mode)
1.	Date on which NIXI’s email was received seeking consent for appointment as Arbitrator.	Dec 17, 2021
2.	Date on which consent was given to act as an Arbitrator in the case.	Dec 17, 2021
3.	Date of Appointment as Arbitrator.	Dec 17, 2021
4.	Soft Copy of complaint and annexures were received from NIXI through email.	Dec 17, 2021
5.	Date on which notice was issued to the Respondent	Dec 17, 2021
6.	Date on which Award passed	Jan 11, 2022

4. Procedural History

- 4.1 This is mandatory arbitration proceeding in accordance with the .IN Domain Name Dispute Resolution Policy (INDRP) adopted by the National Internet Exchange of India (NIXI). The INDRP Rules of Procedure (the Rules) were approved by NIXI on 28th June, 2005 in accordance with the Indian Arbitration and Conciliation Act, 1996. The updated rules are available on <https://www.registry.in/INDRP%20Rules%20of%20Procedure>.

By registering the disputed domain name accredited Registrar of NIXI, the Respondent agreed to the resolution of the dispute pursuant to the .IN Dispute Resolution Policy and Rules framed thereunder.

- 4.2 In accordance with the Rules 2(a) and 4(a) of INDRP Rules, NIXI formally notified the Respondent of the complaint and appointed Dr. Karnika Seth as a sole arbitrator for adjudicating upon the dispute in accordance with the Arbitration and Conciliation Act, 1996 and the rules framed thereunder. The Arbitrator submitted the statement of Acceptance and Declaration of impartiality and independence, as required by NIXI
- 4.3 The complaint was filed in accordance with the requirements of the .IN Domain Name Dispute Resolution.
- 4.4 NIXI served the copy of the complaint alongwith annexures upon the Respondent by email dated 17th December, 2021. The Arbitrator issued notice to the Respondent on 17th Dec, 2021 at the email address kagvaslx@yandex.com and postmaster@1-xbet.in calling upon the Respondent to submit his reply to the complaint within fifteen (15) days of receipt of the Arbitrator's email. Though the email at kagvaslx@yandex.com bounced back but the email at postmaster@1-xbet.in was received.
- 4.5 Despite notice, the Respondent failed to file any reply. Therefore, in accordance with the Rule 12 of INDRP Rules, the Arbitration proceedings were conducted ex-parte and the Award is passed which is binding on both parties herein.

5. Factual Background

- 5.1 The Complainant, trading as Navasard Limited is a sports betting brand existing since 2015 which specializes in and is recognized for online sports betting based out of eastern Europe. The Complainant is incorporated under the laws of Cyprus.
- 5.2 The Complainant adopted the trademark "1XBET" in 2015 and through its trademark has been rendering the services and platform for online sports betting brands. The Complainant is registered proprietor of its trademark, 1XBET logo and word mark since 2015.
- 5.3 Complainant registered its trademark 1XBET in Europe in 2015. The Complainant owns exclusive rights in the '1XBET' trademark in Europe under class 35, 41 and 42. Copies of registration certificates for the mark 1XBET in Europe is filed by the Complainant (as per **Annexure 7.1 and 7.2** of the complaint).
- 5.4 The Respondent in this arbitration proceeding is Redacted for Privacy (as per **Annexure 3** of the Complaint). The email Id of the Respondent is kagvaslx@yandex.com. The Respondent registered the disputed domain name with Namecheap, Inc having email address abuse@namecheap.com.

6. Parties Contention

6.1 Complainant's Submissions

- 6.1.1. Complainant operates its business using the trademark "1XBET" and is engaged in providing services of online sports betting since 2015. The Complainant claims that it has been using its mark continuously for its services and is one of most recognized online betting business based in Eastern Europe.
- 6.1.2. The Complainant states that the trademark 1XBET is registered for both word and logo mark in Europe in classes 35, 41 and 42 under

registration no.013914254 which was registered on 27.07.2015 and 014227681 which was registered on 21.09.2015 (as per **Annexure 7.1 and 7.2** of the complaint).

- 6.1.3. The Complainant submits that the use of the word 1-XBET by Respondent is made without any authorization or consent by the Complainant and use of the disputed domain name by the Respondent is clearly subsequent to the use and registration of the Complainant's trademark 1XBET (disputed domain name was registered on 26th Feb, 2021). The Complainant also has presence on popular search engine Google which displays Complainant's trademark/website in the main search result for the keyword '1XBET' that pertains to Complainant and no other entity/person.
- 6.1.4. The Complainant submitted that the disputed domain name www.1-XBET.in is identical to and is clear imitation of the '1XBET' trademark and has been used with an intention to deceive and mislead consumers at large. The Respondent has no legitimate interest or right in the domain name and has registered it to mislead consumers and capitalize on the Complainant's reputation and goodwill. The Complainant has never granted any authorization, license or any right to the Respondent to use the trademark. However, to make unfair commercial gain, the Respondent registered the disputed domain name www.1-XBET.in using the trademark "1XBET" in its entirety.
- 6.1.5. The Complainant also submits that the Respondent has registered the disputed domain name for the purpose of re-selling the same at a profit by taking advantage of the confusing similarity with that of the Complainant's. The Respondent has blatantly put on the identity of the Complainant by misrepresenting itself as Complainant which is clearly visible in the 'Responsible

Gambling' page (as per **Annexure 9.1** of the complaint) and also in the 'Security' page and 'Privacy' page of the disputed domain name (as per **Annexure 9.2 and 9.3** of the complaint).

- 6.1.6. The Complainant submits that misrepresentation by the Respondent is evident from the opening paragraph of the 'Casino Rules' section of the disputed domain name where the Respondent claims that the license agreement was last updated on 3rd Oct., 2013 whereas, the disputed domain name was only created on 26.02.2021 (as per **Annexure 9.4** of the complaint). The Complainant also submits that the Respondent has also misrepresented its identity by claiming the website is owned by 'Casino.com Entertainment Ltd' having registered office at St. Julian's STJ 4011, Portomaso Business Tower, Level 12, Commercial Register Number C55055 whereas, the Complainant made a search on the website of Malta Business Registry and found that the company registered under registry number C55055 is Steinsolutions Co. Ltd. (as per **Annexure 9.5** of the complaint).
- 6.1.7. The Complainant also submits that the Respondent claims in the 'Casino rules' section to be the holder of two Maltese gaming license LGA/CF4/562/2004 granted on 17.01.2006 and MGA/CF3/584/2003 granted on 23.10.2011 by the Lottery and Gaming Authority. The Complainant made search of the same and discovered that such disputed website www.1-xbet.in was not found amongst the licensed website with the authority (as per **Annexure 9.6** of the complaint).
- 6.1.8. In addition, the Complainant submitted that the Respondent has registered the mark in bad faith and is using Complainant's trademark illegally. Such use is to attract internet traffic by creating a likelihood of confusion with the Complainant's name or

mark and to make unjust monetary gain by falsely projecting an association or affiliation with the Complainant.

6.1.9. The Complainant has also sent a detailed abuse report to the Registrar and the Respondent on 03.09.2021 for transferring the disputed domain name to the Complainant (as per **Annexure 8** of the complaint) and also sent subsequent reminder on 16.09.2021 but there was no reply from the Respondent.

6.2. Respondent's Defence

6.2.1 Despite the service of notice by email, the Respondent failed to reply to the notice within the stipulated time.

6.2.2 The INDRP Rules of Procedure require under Rule 8(b) that the arbitrator must ensure that each party is given a fair opportunity to present the case. Rule 8(b) reads as follows:

“The Arbitrator shall at all times treat the parties with equality and provide each one of them with a fair opportunity to present their case.”

6.2.3 Further the INDRP Rules of Procedure empowers the Arbitrator to proceed with arbitration proceedings ex-parte and decide the arbitration in case any party does not comply with the stipulated time limit to file its response. Rule 12 reads as follows:

“In the event any party breaches the provisions of INDRP rules and/or directions of the arbitrator, the matter can be decided ex-parte by the Arbitrator and such arbitral award shall be binding in accordance with law.”

6.2.4 In present arbitration, the Respondent has failed to file any reply to the Complaint and has not sought any further time to answer the Complainant's assertions, contentions or evidences in any manner. The Arbitrator thus finds that the Respondent has been given a fair

chance to present its case. Since the Respondent has failed to reply to Notice to submit its response, Arbitration has been conducted ex-parte in accordance with Rule 12 of the INDRP rules and decided on merits ex-parte.

7. Discussions and Finding

7.1 The .IN Domain Name Dispute Resolution Policy in para 4 requires Complainant to establish the following three requisite conditions: -

- a) The disputed domain name is identical or confusingly similar to the trademark in which Complainant has right
- b) The Respondent has no rights or legitimate interest in the domain name and
- c) The Respondent's domain name has been registered or is being used in bad faith

7.2 The Registrant's domain name is identical or confusingly similar to a name, trademark or service mark in which the Complainant has rights (Paragraph 4(a))

The Complainant submitted that it owns trademark registrations using the word "1XBET" in Europe and has filed documents of its registered trademark in Europe to prove its right in the trademark "1XBET" (as per **Annexure 7.1 and 7.2** of the complaint). The Complainant submitted that 1XBET is a trademark well recognized amongst the consumers and has huge goodwill on internet as well. Thus, the trademark has popularity and has been continuously associated with Complainant and is extensively used with regard to online sports betting.

The Arbitrator finds that the disputed domain name www.1-XBET.in is clearly identical and deceptively similar to Complainant's trademark in which the Complainant has exclusive trademark rights and the Complainant has submitted documentary evidence to prove its rights and ownership in 1XBET mark. A cursory glance at the disputed domain name <1-XBET.in> makes it obvious that the Respondent has exactly incorporated the essential elements of the Complainant's 1XBET mark and thus the disputed domain name is identical/ deceptively similar to the Complainant's mark.

As per WIPO Synopsis 3.0, while each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to the mark for the purposes of UDRP standing. (*Dell Inc. v George Dell & Dell Netsolutions*, case no. D2004-0512 (WIPO Aug 24, 2004), *Busybody Inc. v Fitness Outlet Inc.* D 2000-0127 (WIPO April 22, 2000).

The disputed domain name consists of "1XBET", the Complainant's trademark in entirety, separated by a hyphen from the word and followed by ccTLD ".in" which is likely to deceive and confuse consumers. It is well recognized that incorporating a trademark in its entirety, is sufficient to establish that the domain name is identical or confusingly similar to the Complainant's registered mark. (*LEGO Juris A/S v. Robert Martin*,

INDRP/125(2010); *Viacom International Inc. v. MTV ALBUMS-Mega Top Video Albums Peter Miadshi*, WIPO case No. D2002-0196 (April 16, 2002); *Wal Mart Stores Inc. v. Kuchora Kal*, WIPO case no. D2006-0033 (March 10, 2006).

Although the Disputed Domain Name <1-xbet.in> contains a hyphen between the number and word, this is irrelevant for purposes of the Policy, because the presence or absence of a punctuation mark such as a hyphen cannot on its own avoid confusing similarity. *Six Continents Hotels, Inc. v. Helen Slew*, WIPO Case No. D2004-0656 (Oct 6, 2004) (citing *Six Continents Hotels, Inc. v. Georgetown, Inc.*, WIPO Case No. D2003-0214 (hyphens do not “serve to dispel Internet user confusion here”); *Fort Knox National Company v. Ekaterina Phillipova*, WIPO Case No. D2004-0281 (June 15, 2004).

As the Respondent’s disputed domain name incorporates entire mark of Complainant’s trademark 1XBET, the Arbitrator finds that the Respondent’s domain name is identical or confusingly similar to Complainant’s registered trademark and is likely to deceive the customers.

7.3 The Registrant has no rights or legitimate interest in respect of the domain name (Para 4(b))

Under para 6 of the INDRP policy, a Respondent can prove rights or legitimate interest in the domain name. The Complainant has filed sufficient evidence to prove disputed domain name is identical to ‘1XBET’ trademark, in which the Complainant enjoys substantial reputation and goodwill including registration of

trademark in Europe (annexed as Annexure 7.1 and 7.2 of the complaint). Complainant alleges Respondent has no legitimate interest in the disputed domain name and has brought on record web shots of its website and of disputed domain name wherein complainant's logo and other content from its website is copied allegedly without authorization (as per Annexure 9.1, 9.2, and 9.3 of the complaint).

Despite notice, the Respondent has failed to prove any rights or legitimate interests in the disputed domain name/trademark '1XBET.' Thus, Respondent has failed to establish legitimate interest and/or rights in the disputed domain name. Complainant has also submitted that it has not authorized nor licensed Respondent to use its 1XBET mark and Respondent has failed to rebut the same. The Complainant submits that the Respondent has registered the disputed domain name with a view to engage in unfair commercial use of the mark 1XBET with the sole aim to make illegal monetary benefits from unauthorised use of the goodwill and reputation of the Complainant's mark 1XBET.

Complainant contends that Respondent has registered the domain name only to take unfair advantage of Complainant's global reputation and goodwill. Further, the Complainant submitted that the Respondent does not have any rights or legitimate interest in the disputed domain name and it intends to make unjust and illicit commercial profits. Arbitrator is of the view that unlicensed and unauthorized use of domain name incorporating complainant's trademark proves respondent has no legitimate rights nor interest in the domain name pursuant to ICANN Policy 4(b).

The Complainant submits that the Respondent has blatantly put on the identity of the Complainant by misrepresenting itself as Complainant which is clearly visible in the 'Responsible Gambling' page (as per **Annexure 9.1** of the complaint) and also in the 'Security' page and 'Privacy' page of the disputed domain name (as per **Annexure 9.2 and 9.3** of the complaint). The misrepresentation of the Respondent can also be seen at the opening paragraph of the 'Casino Rules' section of the disputed domain name where the Respondent is claiming that the license agreement was last updated on 3rd Oct., 2013 whereas, the disputed domain name was only created on 26.02.2021 (as per **Annexure 9.4** of the complaint).

It is the Respondent's responsibility to determine whether the Respondent's domain name registration is likely to infringe or violate someone else's rights. The Respondent has failed to discharge this burden as well. Thus, for the aforesaid reasons, the Arbitrator finds that the Respondent has no rights and/or legitimate interests in the disputed domain name.

7.4 The Registrant's domain name has been registered or is being used in bad faith (Para 4(c))

For the purpose of Para 4 (c) of .IN Policy, under paragraph 7 of the policy, the Complainant is required to establish that the domain name was registered or is being used in bad faith.

The Complainant submitted that '1XBET' trademark has acquired considerable amount of goodwill with respect to online sports betting brands. The Complainant has secured registration of the

mark "1XBET" in Europe in classes 35, 41 and 42 (annexed as **Annexure 7.1 and 7.2** with the Complaint) and has customers in various parts of the world, including in India evident from its website www.1xbet.com. The Respondent has produced no evidence of authorization from Complainant or justification for registering the disputed domain name. The Complainant also submits that it adopted its mark much prior to that of Respondent and that the Respondent has intentionally adopted disputed domain name www.1-xbet.in despite prior knowledge to make unfair gains which amounts to bad faith registration. The Arbitrator in the present case finds bad faith in the registration and use of the disputed domain name. (Ref. *Virgin Enterprises Limited v. Syed Hussain*, WIPO Case No. D2012-2395 and *Carige Vita Nuova S.P.A. v. Vita Nuova Public Organization, Domain Management / Whois Privacy Services by Domain Protect LLC*, WIPO Case No. D2010-1912, *Burberry Limited v. Ruo Chang*, WIPO Case No. D2010-1304).

The Complainant has filed evidence to show bad faith registration by filing screen shot of the web page of disputed domain showing its unfair use by Respondent. This is evident from (**Annexure 9.1, 9.2 and 9.3** of complaint).

WIPO Overview 3.0 notes in Section 3.14 "*panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith*". The same

principle is relied on in *Adobe Inc. v. Amin Mohammad Salehi, Uranos*, case no. DIR2020-0006, June 30, 2020.

Despite notice, Respondent failed to submit its response and evidence to claim bonafide registration of disputed domain name in respect of its offering of goods/services. Such registration and use is likely to mislead the consumers of an affiliation with Complainant which amounts to bad faith registration under .IN policy.

Thus, Arbitrator finds that Respondent's disputed domain name is likely to mislead the consumers by creating a likelihood of confusion with the Complainant's name or mark. (*Yusuf A. Alghanism & sons WLL v Anees Salah Salahmeh* (WIPO case no. D2018-1231). It is a settled principle that registration of a domain name with the intention to create confusion in the mind of internet users and attract internet traffic based on the goodwill associated with the trademark is considered bad faith registration (*PepsiCo Ins. Vs. Wang Shaung*, INDRP case no.400, December 13, 2012).

For the aforesaid reasons, the Arbitrator in the present case finds bad faith in the registration and use of the disputed domain name (Ref. *Virgin Enterprises Limited v. Syed Hussain*, WIPO Case no. D2012-2395).

For the aforesaid reasons, the Arbitrator finds the third ground is also established by the Complainant under the .IN Policy.



8. DECISION

On the basis of the abovesaid findings the Sole Arbitrator finds that:

- a) The Complainant has successfully established three grounds required under the policy to succeed in these proceedings.
- b) Respondent has failed to rebut averments, contentions and submissions of the Complainant

The Arbitrator directs the .IN Registry of NIXI to transfer the domain name www.1-XBET.in to the Complainant.

The Award is passed on this 11th January, 2022

Place: Noida



Dr. Karnika Seth
Sole Arbitrator

ADDENDUM TO THE ARBITRAL AWARD IN INDRP NO. 1472 IN
RE: DISPUTED DOMAIN NAME: 1-xbet.in

Before the Sole Arbitrator, Dr. Karnika Seth
.IN Registry
NATIONAL INTERNET EXCHANGE OF INDIA

IN THE MATTER OF-

Navasard Limited
16 Agias Eirinis,
Office 101, Aglantzia,
2102, Nicosia, Cyprus

.....Complainant

Versus

Vasiliy Kagarlickiy
Danilovo, Naberezhna 12
Danilovo
Zakarpattia Oblast
90443 UA

.....Respondent



**ADDENDUM TO THE ARBITRAL AWARD IN INDRP NO. 1472 IN
RE: DISPUTED DOMAIN NAME: 1-xbet.in**

The Arbitral Award in Re: INDRP NO.1472 pertaining to disputed domain name 1-xbet.in was passed on 11 Jan 2022. The said Award contained an inadvertent typographical mistake in the name of the Respondent in the cause title of Award wherein Respondent was mentioned as 'Redacted for Privacy.' The name of the Respondent as mentioned in the Who is record shall be read as –

Vasiliy Kagarlickiy
Danilovo, Naberezhna 12
Danilovo
Zakarpattia Oblast
90443 UA

Dated. 4 Feb 2022

Place: Noida



Dr. Karnika Seth
Sole Arbitrator