



URS | DETERMINATION
(URS Procedure 9, URS Rules 13)

URS DISPUTE NO. E8B0419C

Determination DEFAULT

I. PARTIES

Complainant(s): Logflex MT Limited (MT)

Respondent(s): Aleks Miceski (MK)

II. THE DOMAIN NAME(S), REGISTRY OPERATOR AND REGISTRAR

Domain Name(s): NOVIBET.TOP

Registry Operator: .TOP Registry

Registrar: PDR Ltd. d/b/a PublicDomainRegistry.com

III. PROCEDURAL HISTORY

Complaint submitted: 2022-05-13 18:07

Lock of the domain name(s): 2022-05-18 12:24

Notice of Complaint: 2022-05-18 14:31

Default Date: 2022-06-02 00:00

Notice of Default: 2022-06-01 19:51

Panel Appointed: 2022-06-02 19:54

Default Determination issued: 2022-06-03 11:46

IV. EXAMINER

Examiner's Name: Ana Pepeljugoska

The Examiner certifies that she has acted independently and impartially and to the best of her knowledge has no known conflict in serving as the Examiner in this administrative proceeding.

V. RELIEF SOUGHT

The Complainant requests that the domain name be suspended for the balance of the registration period.

The Respondent has not submitted a Response.

VI. STANDARD OF REVIEW

Clear and convincing evidence.

VII. DISCUSSIONS AND FINDINGS

A. Complainant:

The Complainant, LOGFLEX MT LIMITED—part of a group of companies, is a company based in Malta that operates on an international level in the gambling industry. The Complainant owns the European Union trademark “NOVIBET”, registered on 05.10.2018, in classes 9, 16, 28, 35, 36, 38, 41 and 42, that is currently in use.

The Complainant asserts that the disputed domain name is infringing its trademark rights as such domain name is identical to its “NOVIBET” mark. In addition, the Complainant notes that the disputed domain name was registered in 2021, three years after Complainant’s trademark registration, and is used, without any authorization granted by the Complainant, for commercial activity in relation to the sports betting sector in which the Complainant and its trademark have already established a recognizable presence.

B. Respondent:

The Respondent did not submit a Response.

C. Procedural findings:

Having reviewed the communications records, the Examiner finds that MFSD has discharged its responsibility under the URS Procedure paragraphs 3 and 4 and URS Rules paragraph 4.

In accordance with URS Rules Paragraph 9(d), in absence of a Response, the language of the Determination shall be English.

D. Findings of fact:

The disputed domain name was registered on 2021-08-28.

The Complainant has submitted sufficient evidence that demonstrates its trademark registration for the distinctive term “NOVIBET”:

- EUTM registration No. 017916356 “NOVIBET” (figurative), dated 05.10.2018, in classes 9, 16, 28, 35, 36, 38, 41 and 42.

The Complainant has also provided documentary evidence, including relevant licenses to its affiliate companies, the screenshot of its main website associated to its domain name <novibet.com> and invoices, proving the usage of the “NOVIBET” trademark by itself and its affiliate companies in several jurisdictions, including Malta, Ireland, Greece and Italy.

E. Reasoning:

For the Complainant to succeed, it must establish that each of the three following conditions under 1.2.6 URS Procedure is satisfied:

- o That the disputed domain name is identical or confusingly similar to a word mark;
- o That the Registrant has no legitimate right or interest to the disputed domain name;
- o That the disputed domain name was registered and is being used in bad faith.

1. The domain name is identical or confusingly similar to a word mark

The Complainant has demonstrated by to have a valid trademark registration for the distinctive term “NOVIBET” as a word mark that is being used in the gambling industry. It is evident from the proof of use submitted by the Complainant that the trademark is in current use.



The disputed domain name is a verbatim copy of the word mark “NOVIBET,” as the Respondent’s full domain name is novibet.top. The identity is quite clear in this case regardless of the TLD extension. It is, indeed, well-established case law that top-level domains (TLDs), including new gTLDs, should be disregarded when evaluating the similarity of the disputed domain name and the complainant’s mark. *See* WIPO Case No. D2011-0344. Therefore, the suffix “.top” does not play any role here.

Moreover, considering that the Respondent’s website also operates in relation to sports-betting, it is likely that confusion can arise and that the disputed domain name can be perceived as part of the Complainant’s operations.

Therefore, the Examiner concludes that the requirement under Paragraph 1.2.6.1 URS Procedure is fulfilled.

2. The Respondent has no rights or legitimate interests to the domain name

The Complainant did not authorize the Respondent to use its mark for any domain name registration or otherwise. Furthermore, the Complainant, relying on the information from the WHOIS records, argued that the disputed domain name is registered under the name ‘Aleks Miceski’ and, at first sight, that name did not associate, nor resemble with the word mark “NOVIBET”. The Complainant alleges that Mr. Miceski has no brand recognition or any type of connection with the “NOVIBET” mark.

On the other hand, based on the fact that the Respondent has defaulted and did not submit a Response, there are no arguments or facts to be considered that would justify rights or legitimate interests for Respondent in the disputed domain name.

Therefore, the Examiner finds that the Respondent lacks any rights or legitimate interests with respect to the disputed domain name as per the requirement set forth under Paragraph 1.2.6.2. of the URS Procedure.

3. The domain name was registered and is being used in bad faith

The disputed domain name was registered in 2021, three years after the Complainant’s trademark registration for the distinctive term “NOVIBET”. Considering the international presence, good will and reputation acquired by the Complainant and its trademark in the gambling industry, the Examiner can reasonably infer that the Respondent was most likely well aware of the success the Complainant and its mark, and registered the disputed domain name to exploit such reputation.

The website associated with the disputed domain name displays the Complainant’s “NOVIBET” mark, and the Respondent offers services alike those of the Complainant.

According to WIPO Overview 3.0 paragraph 3.1.4, the mere registration of a domain name that is identical or confusingly similar to a famous or widely known trademark by an unaffiliated entity can by itself create a presumption of bad faith. In this case, the combination of registering the disputed domain name identical to the Complainant’s well-known mark and offering alike services proves the Respondent’s bad faith.

When assessing these instances in their totality, the Examiner finds that, by registering and using the disputed domain name that undoubtedly creates high likelihood of confusion with Complainant's mark, the Respondent attempted to attract for commercial gain Internet users (sport bettors) to its website (URS Procedure 1.2.6.3(d)).

Therefore, the Examiner finds that the requirements set forth under Paragraph 1.2.6.3. of the URS Procedure have been satisfied by the Complainant.

4. Abusive Complaint

The Examiner finds that the Complaint was neither abusive nor contained material falsehoods.

VIII. DETERMINATION

A. Demonstration of URS elements

Demonstrated

B. Complaint and remedy

Complaint: Accepts

Domain Name(s): NOVIBET.TOP Suspends for the balance of the registration period

C. Abuse of proceedings

Finding of abuse of proceedings: Not finds

D. Publication

Publication: Publish the Determination

SIGNATURE

Name: Ana

Surname: Pepeljgoska

Date: 2022-06-03