

ADMINISTRATIVE PANEL DECISION

Optibet, SIA v. Ihor Mahura
Case No. D2024-4695

1. The Parties

The Complainant is Optibet, SIA, Latvia, represented by Abion AB, Sweden.

The Respondent is Ihor Mahura, Ukraine.

2. The Domain Name and Registrar

The disputed domain name <optibetcasino.click> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 14, 2024. On November 14, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 14, 2024, 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 (Privacy protected) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 15, 2024 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on November 18, 2024.

The Center verified that the Complaint together with the amendment to the 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 the Respondent of the Complaint, and the proceedings commenced on November 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 9, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 12, 2024.

The Center appointed Jonathan Agmon as the sole panelist in this matter on December 20, 2024. 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

The Complainant is a gaming and casino company based in Latvia. The history of the Complainant's OPTIBET trademark goes back to 1999, and according to the Complaint, the OPTIBET brand is the leading gaming brand in the three Baltic states and beyond. Since 2001, the Complainant has enjoyed a strong online presence through its official website. Due to extensive use, advertising and revenue associated with its OPTIBET trademark worldwide, the Complainant and the OPTIBET brand are well known in the online casino industry.

The Complainant owns various trademarks incorporating OPTIBET, including the following:

- International trademark registration no, 1038387 for OPTIBET, registered on March 15, 2010; and
- Latvian trademark registration no, M55623 for OPTIBET, registered on October 25, 2004.

The Complainant's official domain name is <optibet.com>, registered on January 16, 2001.

The disputed domain name was registered on November 6, 2024, and resolves to an online casino website displaying the Complainant's OPTIBET trademark.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

- The disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The disputed domain name incorporates the Complainant's OPTIBET trademark in its entirety, along with the addition of the generic term "casino", and the generic Top Level Domain ("gTLD") ".click". The Complainant asserts that neither addition is sufficient to prevent a finding of confusing similarity, and in fact, the term "casino" serves to reinforce the similarity as it refers to the Complainant's business and services.
- The Respondent has no rights or legitimate interests in the disputed domain name. There is no evidence that the Respondent is commonly known by the disputed domain name. The Respondent is not a licensee of the Complainant. The Complainant has not authorized the Respondent to use the Complainant's trademark, including registering the disputed domain name, or to offer goods and/or services on the disputed domain name under the Complainant's trademark. The Complainant alleges that the use of the disputed domain name strongly suggests that the Respondent registered the disputed domain name with the Complainant's OPTIBET trademark in mind and intended to commercially profit by misleading consumers who are searching for information about the Complainant.
- The disputed domain name was registered and is being used in bad faith. The Complainant's OPTIBET trademark was registered long before the Respondent registered the disputed domain name. Given that the Complainant was using its OPTIBET trademark long before the disputed domain name was registered, the Complainant asserts that this implies that the Respondent knew, and was aware of the Complainant's OPTIBET trademark and business at the time of registration of the disputed domain name. It

is therefore likely that the Respondent registered the disputed domain name in order to take advantage of the reputation in the Complainant's OPTIBET trademark and goodwill. Further, the disputed domain name resolves to a website that resembles the Complainant's own website, which creates the impression that the disputed domain name is owned and operated by the Complainant. The Complainant alleges that this is evidence of the Respondent's bad faith. The Respondent's website does not display a disclaimer of affiliation with the Complainant, which may mislead potential consumers by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation and misleading the public to believe that the services on the Respondent's website are official and authorized by the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

6.1. Procedural Considerations

The Panel notes that the Respondent's mailing address is stated to be in Ukraine, which is subject to an international conflict at the time of this Decision and that in such cases the Panel is required to ensure that the Respondent was properly served to comply with UDRP Rule 10(b) ("the Parties are treated with equality and that each Party is given a fair opportunity to present its case.") keeping in mind that the proceedings are to be conducted with due expedition.

In this case, the Panel is satisfied that the Respondent was treated equally and given a fair opportunity to present its case:

1. The Center sent an email to the Respondent's verified email address. The email delivered by the Center appears to have been received with no indication that the email was undelivered or rejected.
2. The Center also sent the Written Notice via registered post to the address the Respondent provided as was verified by the Registrar. The record shows that the Written Notice was delivered to the Respondent's address.
3. Despite being serviced both by email and post, the Respondent still failed to file a Response to the Complainant or communicate with the Center. An adverse inference is drawn accordingly and for the reasons which are set out later in this Decision the Panel notes that the Respondent was targeting the Complainant and has acted in bad faith.

The Panel concludes that the Parties have been given a fair opportunity to present their case, and so that the administrative proceeding takes place with due expedition the Panel will proceed to a Decision accordingly.

6.2. Substantive Issues

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 disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

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

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term, here, “casino”, may bear on assessment of the second and third elements, the Panel finds the addition of such a term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy 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 UDRP proceedings 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 disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

There is no evidence that the Respondent is commonly known by the disputed domain name or that he was licensed or authorized by the Complainant to use the OPTIBET trademark or to register the disputed domain name. The Complainant’s use and registration of the OPTIBET trademark long predates the registration date of the disputed domain name.

The Respondent failed to rebut the prima facie case established by the Complainant has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain names such as those enumerated in the Policy or otherwise.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In this case, the Panel finds that the Respondent registered the disputed domain name in bad faith as the Complainant’s use and registration of the OPTIBET trademark long predate the registration date of the disputed domain name. The Complainant’s OPTIBET trademark is prominently displayed on the Respondent’s website. The Respondent’s website displays text that refers to the site as “Optibet Casino”, which Internet users would reasonably believe to mean “a casino owned/operated by Optibet” and is sufficient to create a false association between the Respondent’s webpage and the Complainant.

The display of the Complainant’s OPTIBET trademark, and numerous references to “Optibet Casino”, together with the display of some similar images to those in the Complainant’s games, are on the whole, clear evidence that the Respondent intended to target the Complainant and use the disputed domain name

in bad faith to profit off the goodwill of the Complainant's OPTIBET trademark.

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

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 <optibetcasino.click> be transferred to the Complainant.

/Jonathan Agmon/

Jonathan Agmon

Sole Panelist

Date: January 2, 2025