

ADMINISTRATIVE PANEL DECISION

Optibet SIA v. Nicolas Canteros Alvarez
Case No. D2025-0169

1. The Parties

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

The Respondent is Nicolas Canteros Alvarez, Argentina.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 16, 2025. On January 16, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 16, 2025, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 20, 2025, 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 January 21, 2025.

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 January 23, 2025. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 14, 2025.

The Center appointed Mladen Vukmir as the sole panelist in this matter on February 18, 2025. 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 company based in Latvia that owns and operates an online casino since 1999.

The Complainant is the owner of several OPTIBET trademarks registered in various jurisdictions, including OPTIBET International Registration number 1038387 (word) registered on March 15, 2010, for services in Class 41 of International Classification ("IC"), OPTIBET (figurative) trademark registered in the European Union on October 11, 2023, under the registration number 018889868 for goods and services in Classes 9, 38, and 41 of IC, and OPTIBET (figurative) trademark registered in Latvia on December 20, 2018, under the registration number M 73 510 for goods and services in Classes 9, 28, 35, 36, and 38 of IC ("OPTIBET trademark").

The Complainant holds the domain name <optibet.com>, registered on January 16, 2001, which is used for the Complainant's online casino and betting activities.

The disputed domain name was registered on December 29, 2024. It resolves to a website presenting print screens of online casino games which are not linked to any content. The Complainant's OPTIBET trademark has been presented at the top of the website created under the disputed domain name.

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:

(i) The Complainant operates an online casino since 1999, and has a strong market presence, primarily in Baltic States. The Complainant has made consistent use of its OPTIBET trademark, both through its own marketing channels and its official website created under the domain name <optibet.com>.

(ii) The disputed domain name is identical to the Complainant's OPTIBET trademark and domain name <optibet.com>. The disputed domain name encompasses the Complainant's OPTIBET trademark in full adding no elements that would distinguish it from the Complainant's OPTIBET trademark.

(iii) the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant didn't authorize the Respondent to use the Complainant's OPTIBET trademark. To the Complainant's knowledge, the Respondent does not own any trademark rights in the OPTIBET mark, and there is no evidence that the Respondent is commonly known by the disputed domain name. The Respondent uses figurative mark as a disputed domain name header icon, which is confusingly similar to the Complainant's OPTIBET trademark. The Respondent has no rights to the disputed domain name, since it did not use it in connection with a bona fide offering of goods and services. The Respondent is not engaged in any legitimate noncommercial or fair use of the disputed domain name.

(iv) The disputed domain name has been registered and is being used in bad faith. The disputed domain name was registered to create the likelihood of confusion with the Complainant's OPTIBET trademark, that was registered several years before registration of the disputed domain name, to attract attention to the Respondent's website, for commercial gain. The Respondent is using the Complainant's OPTIBET trademark on the website created under the disputed domain name, which indicates the Respondent's prior

knowledge of the Complainant, its activities and OPTIBET trademark. Content on the website created under the disputed domain name directly correlates to the primary area of business of the Complainant. The Respondent's use of the Registrar's privacy service when registering the disputed domain name is itself evidence of bad faith.

B. Respondent

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

6. Discussion and Findings

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 OPTIBET trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

The generic Top-Level Domain ".top" is a standard registration requirement and as such may be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

The Panel concludes that the Complainant has met the requirements of paragraph 4(a)(i) of the Policy by proving its rights to OPTIBET trademark and demonstrating that the disputed domain name is identical to its OPTIBET trademark.

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.

The Complainant has not authorized the Respondent to use the Complainant's OPTIBET trademark, and there is no indication that the Respondent is commonly known under the disputed domain name. There is no evidence that the Respondent has been using the disputed domain name in connection with bona fide offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name.

The nature of the disputed domain name, comprising the Complainant's OPTIBET trademark in its entirety, as well as the unauthorized use of the Complainant's OPTIBET trademark at the top of the website created under the disputed domain name, indicate the Respondent's awareness of the Complainant and its OPTIBET trademark, and create a risk of implied affiliation or association with the Complainant, which does not support a finding of any rights or legitimate interests in this case. [WIPO Overview 3.0](#), section 2.5.1.

Panels have held that the use of a domain name for illegal activity here, impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Respondent has failed to provide a Response to the Complaint and failed to rebut the Complainant's prima facie case showing that the Respondent has no rights or legitimate interest in the disputed domain name.

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 the present case, the Respondent has registered the disputed domain name which exclusively includes the Complainant's OPTIBET trademark. The Panel notes from the images displayed on the website, that the Respondent uses its website to display print screens of online casino games which are not linked to any further content. The content presented on the Respondent's website correlates to the Complainant's primary business area. At the top of the Respondent's website there is presented the Complainant's OPTIBET trademark. Internet users are very likely to be misled to believe that the website is either the Complainant's website or was run by the Complainant.

The available evidence shows that registration and use of the Complainant's OPTIBET trademark and registration of the Complainant's domain name <optibet.com> predate the registration of the disputed domain name.

This Panel accepts that the Complainant's OPTIBET trademark is distinctive and well known within the online gambling industry. Having in mind the nature of the disputed domain name and the use to which the disputed domain name has been put, this Panel is of opinion that it is highly unlikely that the Respondent was unaware of the Complainant and its OPTIBET trademark when it registered the disputed domain name. In this Panel's view, the Respondent is, by using OPTIBET trademark in the disputed domain name and impersonating the Complainant by placing OPTIBET trademark at the top of its website, intentionally attempting to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant and its OPTIBET trademark. It is well established that if a respondent has intentionally attempted to attract for commercial gain by creating a likelihood of confusion with the complainant's trademark it is an indicator of bad faith.

Panels have held that the use of a domain name for illegal activity, here, impersonation/passing off constitutes bad faith. [WIPO Overview 3.0](#), section 3.4.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <optibet.top> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: March 4, 2025