

## ADMINISTRATIVE PANEL DECISION

Özel Vivid Smile Dent Ağız ve Diş Sağlığı Polikliniği Limited Şirketi v.  
opabook  
Case No. D2026-1332

### 1. The Parties

The Complainant is Özel Vivid Smile Dent Ağız ve Diş Sağlığı Polikliniği Limited Şirketi, Türkiye, internally represented.

The Respondent is opabook, Republic of Korea

### 2. The Domain Name and Registrar

The disputed domain name <vividsmiledent.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on March 27, 2026. On March 27, 2026, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 30, 2026, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Complainant filed an amended Complaint on April 2, 2026.

The Center verified that the Complaint together with the amended 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 April 8, 2026. In accordance with the Rules, paragraph 5, the due date for Response was April 28, 2026. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 29, 2026.

The Center appointed Zoltán Takács as the sole panelist in this matter on April 30, 2026. 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 in this administrative proceeding is a private oral and dental health polyclinic located in Istanbul, Türkiye.

The Complainant is the owner of the Turkish Trademark Registration No. 2024/072665 for the figurative mark comprising of the words VIVID SMILE DENT and images of a tooth and a variation of a smile logo. The mark was registered on September 10, 2024.

The Complainant owned the disputed domain name <vividsmiledent.com> and has used it to resolve to its official website "www.vividsmiledent.com". It appears that the Complainant inadvertently let the disputed domain name lapse and did not renew it.

The Respondent registered the disputed domain name on February 3, 2026.

The Complainant claims to provide evidence that the Respondent used the disputed domain name for hosting gambling related content, but in view of the Panel the document submitted by the Complainant is inconclusive.

Currently the disputed domain name does not resolve to any active website.

#### **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 which reproduces the Complainant's mark is identical to the mark;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;
- given that the disputed domain name is identical to the Complainant's mark, the Respondent could not reasonably have been unaware of the Complainant's rights; and
- the Respondent actively used the disputed domain name to host gambling-related content which tarnishes the reputation of the Complainant.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

##### **B. Respondent**

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

## 6. Discussion and Findings

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

### 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 Select UDRP Questions ("[WIPO Overview 3.1](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.2.1.

The design elements of the Complainant's mark do not convey relevant information under the first element of the Policy; it's the textual elements VIVID SMILE DENT that are the principal components of the mark for the purposes of assessing identity or confusing similarity. [WIPO Overview 3.1](#), section 1.10. The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the mark for the purposes of the Policy. [WIPO Overview 3.1](#), section 1.7.

The Panel finds that 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 that 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 3.1](#), 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.

What is evident is that the Complainant has not authorized, licensed, or allowed the Respondent to use its mark in the disputed domain name or in any other way.

As mentioned above, the Complainant claims to provide evidence that the Respondent used the disputed domain name for hosting gambling related content. Apart from this evidence, which the Panel finds inconclusive, there is no proof that the disputed domain name was actively used.

However, passive holding of a domain name in itself does not establish any rights or legitimate interest in the disputed domain name.

Moreover, the disputed domain name is identical to the Complainant's mark, which cannot constitute fair use as it carries a high risk of implied affiliation with the Complainant. [WIPO Overview 3.1](#), section 2.5.1.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name and that 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.

Having reviewed the record, the Panel infers on balance that the Respondent's registration and use of the disputed domain name constitute bad faith under the Policy. [WIPO Overview 3.1](#), section 4.2.

In the present case the Panel notes that the Complainant's mark predates the date of registration of the disputed domain name and that the value of the disputed domain name derives primarily from the fact that it represents the Complainant's mark and business.

The Panel also notes that the Respondent registered the disputed domain name upon its expiration and within very short time from the Complainant's unintentional letting of the disputed domain name to lapse. These facts and circumstances in view of the Panel suggest that the Respondent likely acquired the disputed domain name through "drop-catching", which is not the same as "ordinary" registration of a domain name, since the Respondent was objectively aware that another person – here the Complainant – held the registration immediately prior.

The Respondent defaulted and thus failed to provide any explanation for its inclusion of the Complainant's mark in the disputed domain name.

In the Panel's opinion, in the absence of a response, there is nothing to suggest that the Respondent might have selected the disputed domain name independently of the Complainant's prior rights and business activities and without intent to target the rights of the immediate prior registrant of the disputed domain name, in this case the Complainant.

As noted in Section four of this Panel's decision, the Complainant claims that the Respondent used the disputed domain name to resolve to gambling related content.

In order to establish this, the Complainant produced as evidence a printed timestamped screenshot displaying online gambling and sports betting content. While the Complainant's theory is plausible, and while the Respondent has not rebutted it, the said document in view of the Panel does not convincingly show that it originated from the website to which, according to the Complainant's claim, the disputed domain name resolved.

However, despite the fact that there is no compelling evidence that the disputed domain name has been and is being used does not prevent a finding of bad faith when considering the totality of the circumstances. [WIPO Overview 3.1](#), section 3.3.

Having reviewed the available record, the Panel notes (a) the distinctiveness of the Complainant's mark, which is replicated in the disputed domain name; (b) the fact that the disputed domain name was previously owned by the Complainant, and (c) the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use of the disputed domain name.

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 <vividsmiledent.com> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: May 6, 2026