

ADMINISTRATIVE PANEL DECISION

Optibet, SIA v. Cetin Gurer, Optimum Teknoloji Malz. Dan ve Tic. Ltd
Case No. D2023-5033

1. The Parties

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

The Respondent is Cetin Gurer, Optimum Teknoloji Malz. Dan ve Tic. Ltd, Türkiye.

2. The Domain Name and Registrar

The disputed domain name <opti-bet.net> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 4, 2023. On December 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 4, 2023, 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 (Cetin Gürer, Optimum Teknoloji Ltd Sti) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 16, 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 January 16, 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 January 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 12, 2024.

The Center appointed Steven A. Maier as the sole panelist in this matter on February 16, 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 company registered in Latvia. It is a provider of betting and gaming services, including online casinos, sports betting, and games.

The Complainant is the owner of numerous registrations for the trademark OPTIBET in various countries, the relevant registrations dating from 2006. The registrations include, for example:

- International trademark registration number 1038387 for the word mark OPTIBET, registered on March 15, 2010 in International Class 41; and
- European Union trademark registration number 017445982 for a figurative mark OPTIBET and a logo, registered on February 26, 2018 in International Classes 41 and 43.

The Complainant is also the registrant of the domain name <optibet.com>, registered on January 16, 2001.

The disputed domain name was registered on June 3, 2022.

The Complainant provides evidence that the disputed domain name has resolved to a parking page operated by the Registrar, offering the disputed domain name for sale and containing what appear to be pay-per-click ("PPC") links to gambling-related websites.

5. Parties' Contentions

A. Complainant

The Complainant states that it has used its registered trademark and domain name <optibet.com> in connection with its business activities since 2005. It submits that its trademark has been exposed via marketing channels and its official website at "www.optibet.com", as well as through affiliate partners. The Panel notes, however, that it exhibits no evidence in support of these assertions.

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

The Complainant submits that the disputed domain name is confusingly similar to its OPTIBET trademark. It contends that the disputed domain name is identical to that mark but for the inclusion of a hyphen within the disputed domain name.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its OPTIBET trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither bona fide commercial use nor legitimate noncommercial or fair use of the disputed domain name.

The Complainant submits that the disputed domain name has been registered and is being used in bad faith. It contends that, owing to its business activities for an extended period, it is obvious that the Respondent knew of its OPTIBET trademark when it registered the disputed domain name. It contends that the Respondent is using the confusingly similar disputed domain name to capitalize on the Complainant's rights by the use in particular of PPC links, including those which redirect to competitors of the Complainant.

The Complainant produces evidence that, in July 2023, its representative approached the Registrar in connection with the disputed domain name. The Respondent replied to say that, while it had a contractual arrangement with a company in China to produce OEM equipment under the name OPTIBET, it was willing to sell the disputed domain name for EUR 12,000 (the Complainant misstates this figure as EUR 120,000). The Complainant states that the Respondent did not respond to its requests for details of the contract with the Chinese company, although it had previously offered to supply copies of the relevant signed agreements.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights for the mark OPTIBET. The disputed domain name is identical to that trademark but for the inclusion of a hyphen in the disputed domain name, which does not prevent the Complainant's trademark from being recognizable within it. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a prima facie case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Panel having further concluded (as further discussed below) that the Respondent registered and has used the disputed domain name for the purpose of taking unfair advantage of the Complainant's trademark rights, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Complainant has asserted that it has used the OPTIBET trademark extensively in commerce since 2005. It is also the owner of the domain name <optibet.com> and states that it operates a website at "www.optibet.com". None of these assertions are challenged by the Respondent. The disputed domain name is to all intents and purposes identical to the Complainant's trademark and the Respondent has provided no explanation (within these proceedings at least) for its registration of the disputed domain name. The Panel also accepts the Complainant's evidence that, despite claiming it was operating a legitimate contract with a company based in China, the Respondent failed to provide details of that arrangement while

requesting a payment of EUR 12,000 for the disputed domain name. Furthermore, there is no evidence to support the Respondent's claim, since the disputed domain name appears only to have resolved to parking pages containing PPC links, including those to gambling services potentially competitive with the Complainant's business.

In all the circumstances, the Panel infers that the Respondent registered and has used the disputed domain name in the knowledge of the Complainant's OPTIBET trademark and with the intention of taking unfair commercial advantage of the Complainant's goodwill associated with that trademark, by redirecting Internet users looking for the Complainant to PPC links from which the Respondent presumably obtains revenue. The Panel therefore finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The Panel finds in the circumstances that the disputed domain name has been registered and is being used in bad faith.

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 <opti-bet.net> be transferred to the Complainant.

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: February 27, 2024