

ADMINISTRATIVE PANEL DECISION

Optibet SIA v. Igor shanska
Case No. D2024-2755

1. The Parties

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

The Respondent is Igor shanska, France.

2. The Domain Name and Registrar

The disputed domain name <optibet-lv.site> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 8, 2024. On July 8, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 8, 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 service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 11, 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 July 12, 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 July 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 5, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 6, 2024.

The Center appointed Halvor Manshaus as the sole panelist in this matter on August 15, 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 has owned and operated an online casino since 1999, having a market presence in, among other, the Baltic states.

The Complainant owns a trademark registration comprising of OPTIBET, international trademark registration number 1038387 for services in class 41. The trademark was registered on March 15, 2010. Further, the Complainant holds the domain name <optibet.com>, registered on 16 January 2001.

The disputed domain name was registered on February 29, 2024, and resolves to a passive website.

The Complainant filed a cease-and-desist letter to the Registrar's abuse address to be forwarded to the Respondent on April 12, 2024. The Respondent has not replied to the cease-and-desist letter.

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 with the Complainant's trademark as it includes the trademark in its entirety, only adding "-lv" which has limited impact on the overall impression. Further, the addition of the term "lv" increases the likelihood of confusion as it is the country code of Latvia, which is an important market for the Complainant and the country where the Complainant is incorporated and domiciled.

The Complainant further argues that the Respondent has no rights or legitimate interest in respect of the disputed domain name as the Respondent has not been authorized to use the Complainant's trademark. Further, the Respondent has not used the disputed domain name in connection with any bona fide offering of service and goods, and there is no evidence that the Respondent has been commonly known by the disputed domain name.

The Complainant asserts that the disputed domain name was registered and is being used in bad faith. The Complainant's trademark registration predates the registration of the disputed domain name. Additionally, the Respondent's use of a privacy service provider to register the domain name, combined with the lack of legitimate interest and the potential for confusion, indicates bad faith. The disputed domain name incorporates the Complainant's trademark in its entirety, followed by "-lv," the country code for Latvia, where the Complainant is based. This addition heightens the risk of confusion, and it is unlikely that the Respondent added "-lv" by coincidence. Furthermore, the Respondent's failure to respond to the Complainant's cease-and-desist letter further demonstrates 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 a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Further, 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 other terms here, "-lv", may bear on assessment of the second and third elements, the Panel finds the addition of such 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.

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 Panel notes that the Respondent has registered the disputed domain name using a privacy service provider, more than 24 years after the Complainant's trademark was registered.

Further, the Panel notes that addition of “-lv” appears to be deliberate rather than coincidental as it corresponds to the country code for Latvia, where the Complainant is located, incorporated, and operates. Furthermore, the Respondent's failure to respond to the Complainant's cease-and-desist letter further suggests bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes that the Complainant registered its trademark over 24 years before the disputed domain name was registered, and noting the composition of the disputed domain name, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of 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-lv.site> be transferred to the Complainant.

/Halvor Manshaus/

Halvor Manshaus

Sole Panelist

Date: August 29, 2024