

ADMINISTRATIVE PANEL DECISION

Optibet, SIA v. Irina Zenenkova

Case No. D2024-2814

1. The Parties

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

The Respondent is Irina Zenenkova, Kazakhstan.

2. The Domain Name and Registrar

The disputed domain name <optibet-kazino.com> 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 10, 2024. On July 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 11, 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 (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 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 amended Complaint on July 12, 2024.

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 July 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 6, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 7, 2024.

The Center appointed Christiane Féral-Schuhl as the sole panelist in this matter on August 13, 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 Complainant owns several registered trademarks incorporating the word “Optibet” (the “OPTIBET Trademarks”) which also correspond to its commercial name, including:

- the International mark OPTIBET No. 1038387, registered on March 15, 2010, for products and services in class 41;
- the International mark OPTIBET No. 1401578, registered on November 15, 2017, for products and services in class 41.

The disputed domain name was registered on November 17, 2021. The disputed domain name resolves to a webpage that displays links and information for services competing with the Complainant and refers specifically to the Complainant.

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 its prior OPTIBET Trademarks. The Complainant submits that the disputed domain name wholly incorporates the OPTIBET Trademarks with the addition of the word “kazino” which means casino in Latvian, and which only reinforces the similarity as it refers to the Complainant’s main business.

Then, the Complainant submits the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant underlines the Respondent is not a licensee of the Complainant and that the Complainant has not given the Respondent any permission to register the trademark as a domain name or to use or present an offering of goods and services on the domain under the Complainant’s Trademarks. The Complainant contends that the Respondent is not commonly known by the disputed domain name. The Complainant adds that the usage of the disputed domain name strongly suggests that it was registered with the OPTIBET Trademarks in mind and to commercially profit from misleading consumers searching for information about the Complainant’s business.

Finally, the Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant submits that the OPTIBET Trademarks were registered well before the Respondent became the owner of the disputed domain name. The Complainant adds that the disputed domain name is confusingly similar to the Complainant’s registered rights and that the Respondent is trying to take advantage of the Complainant’s trademarks to draw traffic to a website that offers competitor services. Therefore, the Complainant submits that the disputed domain name has been registered to commercially profit from the likelihood of confusion between the OPTIBET Trademarks and the disputed domain name. The Complainant underlines that it sent a cease-and-desist letter to the Respondent on June 25, 2024, without any reply. Finally, the Complainant submits that the Respondent has been involved in several other bad-faith domain name registrations and UDRP procedures, showing that it has engaged in a pattern of trademark-abusive domain name registrations.

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.

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

Although the addition of other terms (here, "kazino") 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.

Indeed, it appears that the Respondent has not received any authorization from the Complainant to use the OPTIBET Trademarks in any manner. Moreover, the Panel finds that there is no evidence that the Respondent is not commonly known by the disputed domain name.

In addition, the nature of the disputed domain name (including the OPTIBET Trademarks in their entirety with the addition of the term "kasino", which means casino in Latvian and which is related to the Complainant's activities), also impersonates or at least suggests sponsorship or endorsement by the Complainant. [WIPO Overview 3.0](#), section 2.5.1.

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 disputed domain name was registered well after the OPTIBET Trademarks registration and that the website to which the disputed domain name resolves displays links and information for services competing with the Complainant and refers specifically to the Complainant. Therefore, the Panel finds that the Respondent was most likely well aware of the Complainant's OPTIBET Trademarks at the date of registration of the disputed domain name.

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.

The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the OPTIBET Trademarks.

Moreover, the Panel also notes that the Respondent has engaged in a pattern of trademark-abusive domain name registrations.

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-kazino.com> be transferred to the Complainant.

/Christiane Féral-Schuhl/

Christiane Féral-Schuhl

Sole Panelist

Date: August 27, 2024