

## **ADMINISTRATIVE PANEL DECISION**

Optibet, SIA v. Kyrylo Kirieiev  
Case No. D2024-3896

### **1. The Parties**

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

The Respondent is Kyrylo Kirieiev, Kazakhstan.

### **2. The Domain Name and Registrar**

The disputed domain name <optibetplace.com> is registered with Hostinger Operations, UAB (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on September 24, 2024. On September 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 25, 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 (Domain Admin / Privacy Protect, LLC (PrivacyProtect.org)) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 25, 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 September 25, 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 October 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on October 24, 2024.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on November 2, 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, based in Latvia, operates an online sports betting and gambling casino platform under the brand OPTIBET.

The Complainant owns various trademark registrations corresponding to its brand OPTIBET, including International Trademark Registration No. 1038387, OPTBIET, word, registered on March 15, 2010, in Class 41; and Latvian Trademark Registration No. M 55 623, OPTIBET, word, registered on October 10, 2005, in Class 41 (collectively hereinafter referred as the “OPTIBET mark”).

The Complainant further owns various domain names corresponding to its brand, including <optibet.com> (registered on January 16, 2001), which resolves to its online sports betting and gambling casino platform.

The disputed domain name was registered on May 11, 2024, and it is currently apparently inactive resolving to an Internet browser error message that indicates, “This site can’t be reached”. According to the evidence provided by the Complainant, the disputed domain name previously resolved to a website, in English language, that purportedly promoted a “Latvian Tours Travel Agency” that provided information and promoted various casino hotels under the title “Best Casino Hotels to Visit in Latvia”.

On June 25, 2024, the Complainant sent a cease-and-desist letter to the Respondent through the Registrar. Per the Complaint, the Respondent did not reply to this communication.

#### **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 identically incorporates the OPTIBET mark with the addition of the term “place”, which is insufficient to avoid the confusing similarity. The OPTIBET mark is recognizable in the disputed domain name.

The Complainant further contends the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent has no authorization to use the OPTIBET mark, and there is no evidence indicating the Respondent is commonly known by or owns any rights over the terms included in the disputed domain name.

The Complainant finally contends the use of the disputed domain name suggests it was registered with the Complainant’s trademark in mind to commercially profit from misleading consumers searching for the Complainant’s business. The Respondent has taken advantage of the Complainant’s trademark to draw traffic to a website that promotes casino hotels providing competing services. The Respondent’s lack of response to the cease-and-desist letter, as well as the use of privacy services for the registration of the disputed domain name, and the lack of contact information in the Respondent’s website further corroborate its bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, inter alia, in paragraph 10 of the Rules.

### **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, namely the OPTIBET mark. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the Panel finds the mark is recognizable within the disputed domain name, and 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, the term "place", 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.

Therefore, 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 notes the Respondent's name, provided by the Registrar verification, does not share any similarities with the terms included in the disputed domain name.

The Panel further notes that, according to the Complainant's allegations, there are no registered trademarks for the terms "optibet" or "optibet place" owned by the Respondent. The Panel, under its general powers, has corroborated, through a search over the Global Brand Database, the Respondent owns no trademark rights over these terms or any other mark.

The Panel further notes the disputed domain name is apparently inactive, as it resolves to an Internet browser error message indicating, "This site can't be reached". However, according to the evidence provided by the Complainant, corroborated by the Panel through a search over the Internet archive WayBackMachine, the disputed domain name has been used in connection to a website, in English language, purportedly related to a "Latvian Tours Travel Agency" that promoted the "Best Casino Hotels to Visit in Latvia", businesses that compete with the Complainant.

The Panel further notes the additional term included in the disputed domain name, "place", refers to a physical location, and, together with the inclusion of the OPTIBET mark, may refer to the same services provided under the mark but in a physical location, such as in casino hotels. Therefore, the Panel finds the composition of the disputed domain name indicates targeting of the Complainant, and of its trademark, and generates confusion with the Complainant, its trademark, and its business. The disputed domain name gives the impression of being owned by or associated to the Complainant or its business. Therefore, the Panel finds such use cannot be considered a bona fide offering of goods or services under the Policy. [WIPO Overview 3.0](#), section 2.5.1.

Accordingly, the Panel finds nothing in the record or in its assessment of this case indicates the existence of any rights or legitimate interests on the Respondent, and the composition of the disputed domain name indicates targeting of the Complainant and of its OPTIBET mark and generates confusion.

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 Complainant's trademark is used over the Internet, and any search over the term "optibet" reveals the Complainant and its sports betting and online casino platform. The Panel has further corroborated the Complainant's allegations regarding the long continuous use of its trademark over the Internet through the Internet archive WayBackMachine, in which there are stored various captures of the Complainant's website at "www.optibet.com" that corroborate the continuous use of the OPTIBET mark over the Internet at least since 2001.

The Panel thus finds the Respondent likely knew of the Complainant and its trademark and deliberately registered the disputed domain name in bad faith.

The Panel further notes the composition of the disputed domain name confusingly similar to the OPTIBET mark, indicates, in a balance of probabilities, a targeting of the Complainant. The Panel finds the inclusion of the term "place" after the mark and the content of the Respondent's website refer to a physical location, casino hotels, for providing the same services provided under the OPTIBET mark, and signals, in the Panel's view, to an intention on the part of the Respondent to confuse Internet users seeking or expecting the Complainant. The circumstances of this case, on a balance of probabilities, lead to this conclusion. Particularly, (i) the long continuous use over the Internet of the OPTIBET mark; (ii) the inclusion of this mark identically in its entirety in the disputed domain name; (iii) the lack of any apparent rights or legitimate interests on the Respondent; and (iv) the use of the disputed domain name in connection to a website that

promotes competing businesses in the Complainant's filed.

The Panel further notes the Respondent has not come forward and has not provided any evidence that may justify any rights or legitimate interests, nor has the Respondent rebutted the Complainant's allegations of bad faith, and it did not apparently respond to the Complainant's cease-and-desist communication prior to the Complaint.

Regarding the current apparent non-use of the disputed domain name. Panels have found that the non-use of a domain name (including a blank or "coming soon" page) 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 the distinctiveness, continuous use over the Internet for more than 20 years of the Complainant's trademark, and the composition of the disputed domain name, and 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 <optibetplace.com> be transferred to the Complainant.

*/Reyes Campello Estebarez/*

**Reyes Campello Estebarez**

Sole Panelist

Date: November 13, 2024