

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Privacy Service Provided by Withheld for Privacy ehf /
Steffen Hain
Case No. D2022-0542

1. The Parties

The Complainant is LPL Financial LLC, United States of America (“United States”), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Steffen Hain, Germany.

2. The Domain Name and Registrar

The disputed domain name <lpleurope.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 February 16, 2022. On February 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on February 17, 2022, 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 and contact information in the Complaint.

The Center sent an email communication to the Complainant on February 18, 2022 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 February 23, 2022.

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 February 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 17, 2022.

The Center appointed Assen Alexiev as the sole panelist in this matter on March 21, 2022. 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 was founded in 1989 through the merger of the brokerage firms Linsco and Private Ledger. It operates in the retail financial advice market in the United States as an independent broker-dealer. The Complainant provides an integrated platform of brokerage and investment advisory services to more than 19,100 financial professionals and approximately 800 financial institutions, managing over USD 1.1 trillion in advisory and brokerage assets. The Complainant has over 4,800 employees and its net revenue in 2020 was over USD 5.8 billion, with a gross profit of over USD 2.1 billion.

The Complainant is the owner of, *inter alia*, the United States trademark LPL with registration No. 1,801,076, registered on October 26, 1993 for services in International Class 36 (the “LPL trademark”).

The Complainant has also registered, *inter alia*, the domain name <lpl.com> on August 2, 1994, and uses it for its main corporate website.

The disputed domain name was registered on November 24, 2021. It resolves to a website offering financial advisory services related to cryptocurrency investments.

5. Parties' Contentions

A. Complainant

The Complainant submits that the disputed domain name is confusingly similar to the LPL trademark, because it comprises the trademark in its entirety as its leading element, and the addition of the geographical term “europe” to it does not prevent a finding of confusing similarity.

The Complainant submits that the Respondent has no rights or legitimate interests in the disputed domain name, because it is not commonly known under the disputed domain name and has not been authorized to use the Complainant’s LPL trademark.

According to the Complainant, the Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or carried out a legitimate noncommercial or fair use of the disputed domain name. The website at the disputed domain name purports to offer financial advisory services related to cryptocurrency investments and account plans that range from USD 250 to USD 25,000. The website lists an address in London of a non-existent company and indicates separate phone numbers for English and German speakers. The Complainant adds that the Respondent’s website has the same look and feel as the Complainant’s official website because it uses a similar color scheme and graphics copied from the Complainant’s website along with a modified version of the Complainant’s logo in the background. The resulting impression is that the Respondent is holding itself out as the Complainant to pass itself off as a *bona fide* provider of financial services. The Complainant points out that the disputed domain name has been listed on several “scam alert” websites as being used in relation with a fraudulent advance-fee scheme.

The Complainant adds that the content of the Respondent’s website is highly similar to the content of the website previously associated with the domain name <lplfinances.com>, including entire identical sections and identical phone numbers, which supports the inference that the two domain names have been under common control. The Complainant notes in this regard that it has recently prevailed in a UDRP proceeding *LPL Financial LLC v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf /*

Benjamin Nash, Clubarc, WIPO Case No. [D2021-3294](#), concerning the domain name <lpffinances.com>.

According to the Complainant, the above factors support an inference that the Respondent has been using the disputed domain name in an attempt to promote a fictitious business, making unauthorized use of the Complainant's LPL trademark in order to lend a veneer of authenticity to the Respondent's activities.

The Complainant asserts that the disputed domain name was registered and is being used in bad faith. According to the Complainant, its LPL trademark is well known in connection with the Complainant's financial advisory services, and has been continuously and extensively used for over 10 years and has acquired considerable reputation and goodwill worldwide. The Respondent could therefore not argue that it did not have knowledge of the Complainant and its trademark rights when registering the disputed domain name 28 years after the Complainant's first registration of its LPL trademark. Rather, the Respondent's knowledge of the Complainant and of the LPL trademark may be inferred from the Respondent's use of this trademark on the Respondent's website which uses the same color scheme as the Complainant's official website and includes graphics copied from there and a modified version of the Complainant's logo in the background. The Respondent's website thus creates confusion with the Complainant's official website and impersonates the Complainant in the furtherance of a fraudulent scheme aimed at misleading unsuspecting Internet users into subscribing to seemingly fictitious financial advisory services.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth the following three requirements, which have to be met by the Complainant to obtain the transfer of the disputed domain name:

(i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(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.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: "[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name [...]."

The Respondent has however submitted no Response and has not disputed the Complainant's contentions and evidence in this proceeding.

A. Identical or Confusingly Similar

The Complainant has submitted evidence that demonstrates its rights in the LPL trademark.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate circumstances the generic Top-Level Domain ("gTLD") section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). The Panel sees no reason not to follow the same approach here, so it will disregard the ".com" gTLD of the disputed domain name.

The relevant part of the disputed domain name consists of the LPL trademark, followed by the term “europe”. As already held by previous UDRP panels, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity between a domain name and a trademark where the trademark is clearly recognizable in the disputed domain name. See section 1.8 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the LPL trademark.

B. Rights or Legitimate Interests

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, stating that the Respondent is not commonly known under it and has not been authorized by the Complainant to use the LPL trademark. According to the Complainant, the Respondent has registered and used the disputed domain name to impersonate the Complainant through a website that has the same look and feel as the Complainant’s official website in order to mislead unsuspecting visitors and offer them to participate in a fraudulent advance-fee scheme. The Complainant has thus established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Respondent has not disputed the Complainant’s statements and the evidence submitted by it. It has not provided any plausible explanation of its actions. The evidence submitted by the Complainant shows that the disputed domain name resolves to a website that offers cryptocurrency investments and identifies the provider of the website as a company that appears to be non-existent, and contains no disclaimer for the lack of relationship with the Complainant. It appears from this evidence as more likely than not that the Respondent has registered and used the disputed domain name to mislead Internet users that the website at the disputed domain name is affiliated to the Complainant and offers legitimate services. Such conduct does not appear as legitimate and does not support a finding that the Respondent has rights or legitimate interests in the disputed domain name.

On the basis of the above, the Panel finds that the Complainant’s *prima facie* case has remained un rebutted, and that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

In the present case, the disputed domain name is confusingly similar to the Complainant's LPL trademark, which was registered many years earlier, and is being used for a website that offers cryptocurrency investments (that the Panel finds likely to be a scam) by a company that appears to be non-existent. The Respondent's website contains no disclaimer of the lack of relationship between the Parties and of the lack of endorsement of the website by the Complainant.

In view of the above, the Panel finds as more likely than not that the Respondent was aware of the Complainant and of the LPL trademark when registering the disputed domain name, and that by registering and using it, the Respondent has engaged in an attempt to mislead visitors to believe that the cryptocurrency investments advertised on the Respondent's website originate from or are affiliated to the Complainant.

This supports a finding that 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 LPL trademark as to the affiliation or endorsement of the Respondent's website and of the investment opportunities offered on this website. Therefore, the Panel finds that the Respondent has registered and used the disputed domain name 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 <lpleurope.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: March 25, 2022