

## **ADMINISTRATIVE PANEL DECISION**

**Blackbaud, Inc. v. Whois Privacy, Private by Design, LLC / Nicola Contessa**  
**Case No. D2022-1996**

### **1. The Parties**

The Complainant is Blackbaud, Inc., United States of America (“United States”), represented by Soteria LLC, United States.

The Respondent is Whois Privacy, Private by Design, LLC, United States / Nicola Contessa, Italy.

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

The disputed domain name <everfi.finance> (the “Domain Name”) is registered with Porkbun LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 1, 2022. On June 2, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On June 3, 2022, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on June 9, 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 June 10, 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 June 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 10, 2022. The Respondent sent an informal email to the Center on June 13, 2022. No formal Response was filed.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on July 19, 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 is a cloud software company. On December 30, 2021, the Complainant acquired Everfi, Inc., including its assets, such as its trademarks. As a result Everfi, Inc. became a subsidiary of the Complainant. Everfi, Inc. provides services that offer financial capability through digital, branded financial education for consumers, employees, and students.

Everfi, Inc. is the owner of several trademark registrations, including, but not limited to the European Union trademark EverFi (word mark), with registration no. 018271828 and filing date of July 13, 2020 and registration date of September 14, 2021, for goods and services in classes 9, 41, and 42. Moreover, the Complainant is owner of the United States registration for the trademark EverFi (stylized word mark), with registration no. 6687114 and registration date of March 29, 2022, for services in classes 41 and 42. The aforementioned trademark registrations will hereinafter also jointly be referred to as the "Trademark".<sup>1</sup>

The Domain Name was registered on April 20, 2022, and resolves to a website which the registrant uses to advertise cryptocurrency related content.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant contends the following:

The Domain Name is identical to the Trademark when disregarding the gTLD ".finance" whereas, the Domain Name consists of the Trademark in its entirety.

The Registrant has no rights or legitimate interest in regard to the Domain Name. The Complainant has not given its permission or any other authorization for the Registrant to use the Trademark nor is the Respondent affiliated with the Complainant in any way. In addition to this, the Respondent is not commonly known by the Domain Name and has not secured any prior rights in relation to the Domain Name.

Furthermore, the Domain Name has been registered and is being used in bad faith. The Respondent registered the Domain Name with prior knowledge of the Trademark seeing that the Respondent chose to combine a unique, non-dictionary word with the TLD ".finance". In addition to this, the Respondent registered the Domain Name shortly after Blackbaud acquired Everfi, Inc. By doing so the Registrant intentionally disrupts the Complainant's business, whereas the Domain Name attempts to attract or mislead Internet users for commercial gain. Lastly, the Registrant used a privacy service to register the Domain Name.

##### **B. Respondent**

The Respondent submitted a very brief response by email to the Center. In this email the Respondent confirmed that the information in the Complaint was correct and asked to expedite the process. The Respondent indicated that the Respondent would be willing to transfer the Domain Name to the Complainant but faced technical issues.

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<sup>1</sup> The trademark registrations mentioned result from an online search by the Panel. Complainant relied on the existence of trademark rights, but in the annex to the Complaint only included a trade mark application that had not yet matured to registration

## **6. Discussion and Findings**

Pursuant to paragraph 4(a) of the Policy, the Complainant must prove each of the following three elements:

(i) the Domain Name is identical or confusingly similar to the trademark or service mark in which the Complainant has rights;

(ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and

(iii) the Domain Name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Complainant has sufficiently proven to have rights in the Trademark. The Trademark is owned by the Complainant's subsidiary EverFi, Inc. but in accordance with section 1.4.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), a trademark owner's affiliate such as a parent, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. The Complainant has sufficiently proven that it is the parent company of EverFi, Inc. The Respondent has also not sought to rebut the standing of the Complainant (see below under 4.B).

The Domain Name is comprised of the Trademark in its entirety. The Panel, therefore, finds, that the Domain Name is identical to the relevant Trademark. The use of the gTLD ".finance" does not lead to any other conclusion. In accordance with section 1.11 of the [WIPO Overview 3.0](#), the top level domain is in principle disregarded under the first element.

The Panel, therefore, finds that the first element has been satisfied.

### **B. Consent for the Transfer of the Domain Name**

The Panel need not substantively discuss the second and third element.

The Respondent has clearly indicated that it is willing to transfer the Domain Name to the Complainant, but faced technical issues in doing so.

According to section 4.10 of the [WIPO Overview 3.0](#), where parties to a UDRP proceeding have not been able to settle their dispute prior to the issuance of a panel decision using the "standard settlement process", but where the respondent has nevertheless given its consent on the record to the transfer (or cancellation) remedy sought by the complainant, a panel can order the requested remedy on the basis of this consent and thus giving effect to an understood party agreement as to the disposition of their case.

The Respondent did not only consent, the Respondent has also effectively admitted that the allegations brought forward by the Complainant in the Complaint were correct.

As a result the Panel finds that the second and third element have been satisfied.

## 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 Domain Name <everfi.finance> be transferred to the Complainant.

*/Willem J. H. Leppink/*

**Willem J. H. Leppink**

Sole Panelist

Date: August 1, 2022