

ADMINISTRATIVE PANEL DECISION

Keller Group plc v. Ranol; Keller Finance, Keller Finance Limited; and Rich Blofsky

Case No. D2023-0398

1. The Parties

The Complainant is Keller Group plc, United Kingdom, represented by Barker Brettell LLP, United Kingdom.

The Respondents are Ranol, Lithuania; Keller Finance, Keller Finance Limited, Cyprus; and Rich Blofsky, Lithuania.

2. The Domain Names and Registrars

The disputed domain names <keller-fin.com> and <keller-fin.net> are registered with Hostinger, UAB (the “Registrar”).

The disputed domain name <kellerfin.com> is registered with Alibaba.com Singapore E-Commerce Private Limited (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 27, 2023, concerning the disputed domain names <kellerfin.com> and <keller-fin.com>. On January 30, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 31 and February 1, 2023, the Registrars transmitted by email to the Center their verification response disclosing registrants and contact information for the disputed domain names which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on February 3, 2023, providing the registrants and contact information disclosed by the Registrars, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 7, 2023.

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 10, 2023.

On February 15, 2023, the Complainant sent an email communication to the Center in which it requested to add <keller-fin.net> to the Complaint. On February 16, 2023, the Center replied to the Complainant's communication indicating that the Rules do not explicitly provide for a complaint to be amended after the commencement of proceeding to include additional domain names and indicating that it is for the panel to determine when appointed whether or not to accept the addition of new domain names to the complaint and order further procedural steps, if any. On February 17, 2023, the Complainant sent an additional email communication to the Center in which it confirmed its request to add <keller-fin.net> to the Complaint.

In accordance with the Rules, paragraph 5, the due date for Response was March 2, 2023. The Respondents did not submit any response. Accordingly, the Center notified the Respondents' default on March 3, 2023.

The Center appointed Luca Barbero as the sole panelist in this matter on March 14, 2023. 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.

On March 31, 2023, the Panel informed the Center that it would accept the additional disputed domain name <keller-fin.net>. On April 3, 2023, the Center transmitted by email to the Registrar, Hostinger, UAB, a request for registrar verification in connection with the additional disputed domain name <keller-fin.net>. On the same day, the Registrar, Hostinger, UAB, transmitted by email to the Center its verification response confirming the lock of the additional disputed domain name and disclosing the registrant contact information for the additional disputed domain name.

On April 4, 2023, the Panel issued an Administrative Procedural Order (the "Procedural Order"), in which the Complainant was invited to provide, in light of the registrant information disclosed by the Registrar, Hostinger, UAB, further consolidation arguments (if any) by April 11, 2023. The Respondent for the additional disputed domain name <keller-fin.net> was invited by April 18, 2023 (i) to make any submissions regarding the consolidation of the proceedings, and (ii) to file a Response in respect of the additional disputed domain name as it may deem appropriate. The Center was also requested to send to the Respondent for the additional disputed domain name the original Notification of Complaint emails dated February 10, 2023, and the Complainant's request for the additional disputed domain name dated February 15 and 17, 2023, together with the Procedural Order. The Decision due date was extended accordingly to April 28, 2023.

On April 6, 2023, the Complainant sent an email communication to the Center in which it stated that it did not wish to provide further consolidation arguments but reiterated the reasoning behind adding <keller-fin.net> to the Complaint.

The Respondent for the disputed domain name <keller-fin.net> did not provide any comment within the deadline set forth in the Procedural Order.

4. Factual Background

The Complainant is a United Kingdom company initially established in Germany in 1860 by Johann Keller. The Complainant is an independent ground engineering contractor and provides foundation, retention, and soil treatment solutions. It has operations in more than 40 countries across six continents.

The Complainant specializes, in particular, in providing services related to the construction sector, from industrial, commercial, and housing projects to infrastructure construction for dams, tunnels, transportation, and water treatment, as well as projects to address environmental challenges.

One of the Complainant's subsidiaries is Keller Finance Limited, a company registered in the United Kingdom and providing financial services.

The Complainant is the owner of several trademark registrations for KELLER, including the following, as per trademark certificates submitted as Annex 4 to the Complaint:

- United Kingdom trademark No. UK00003190599 for KELLER (word mark), filed on October 11, 2016, and registered on March 17, 2017, in classes 1, 2, 6, 7, 9, 12, 17, 19, 35, 37, 38, 39, 40, 41, 42, and 45; and
- European Union trademark No. 1413014 for KELLER (word mark), registered on July 18, 2017, in classes 1, 2, 6, 7, 9, 12, 17, 19, 35, 37, 38, 39, 40, 41, 42, and 45.

The Complainant is also the owner of the domain name <keller.com>, which was registered on April 11, 1991, and is used by the Complainant to promote its services under the trademark KELLER.

The disputed domain names <kellerfin.com>, registered on September 16, 2022; <keller-fin.com>, registered on September 30, 2022; and <keller-fin.net>, registered on January 13, 2023, currently do not point to active websites. According to the documents and statements submitted by the Complainant, which have not been challenged by the Respondent, the disputed domain name <kellerfin.com> was pointed, prior to the filing of the Complaint, to a website promoting financial services purportedly offered by a company named Keller Finance Limited and displaying, under the "Contact Us" section, an email address based on the disputed domain name <keller-fin.com> ("[...]@keller-fin.com"). The email address provided in that section was subsequently amended with another address based on the disputed domain name <keller-fin.net> ("[...]@keller-fin.net").

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to the trademark KELLER in which the Complainant has rights.

With reference to rights or legitimate interests in respect of the disputed domain names, the Complainant states that the disputed domain names were registered several years after the incorporation of the Complainant's subsidiary Keller Finance Limited, and well after the first use of the Complainant's trademark KELLER, which dates back to 1860.

The Complainant underlines that the Respondents were not granted permission to register the disputed domain names containing the Complainant's trademark and that, before notice to the Respondents of the dispute, there has been no evidence of the Respondents' use of, or demonstrable preparations to use, the disputed domain names or a name corresponding to the disputed domain names in connection with a *bona fide* offering of goods or services.

The Complainant informs the Panel that it had contacted the Registrars of <kellerfin.com> and <keller-fin.com> and, whilst the latter has been suspended but has not, to date, been transferred to the Complainant, it had not yet however received a substantive response from the Registrar of <kellerfin.com>.

The Complainant submits that there appears to be no legitimate reason for the Respondents to use the Complainant's trademark KELLER in the disputed domain names other than to attract, for commercial gain, Internet users to the Respondents' website at the disputed domain name <kellerfin.com>, by suggesting some form of affiliation or endorsement of the Respondents' services.

With reference to the circumstances evidencing bad faith, the Complainant indicates that it received reports from several of its customers, of approaches made from individuals claiming to be from Keller Finance Limited. As a result of such reports, the Complainant became aware of the disputed domain name <kellerfin.com>, which is imitating the Complainant by using its trademark KELLER to extort money from the Complainant's customers.

The Complainant further contends that the copyright disclaimer at the bottom of the web page at the disputed domain name <kellerfin.com> also contains the Complainant's trademark and the company name "Keller Finance Limited" and is shown as "Copyrights © 2002 KELLER FINANCE LIMITED All rights reserved". The Complainant further highlights that the contact email address "[...@keller-fin.com]" indicated on the website at the disputed domain name <kellerfin.com> is based on <keller-fin.com>, the second disputed domain name, a circumstance which clearly shows a connection between the two.

The Complainant submits that, although the disputed domain names have different registrars, they are clearly commonly owned, being used in conjunction with each other to extort money from the Complainant's customers.

Moreover, the Complainant submits that, in addition to the reports regarding email communications concerning the disputed domain name <kellerfin.com>, the Complainant also received reports from several of its customers, of approaches made by telephone and from email addresses originating from the disputed domain name <keller-fin.com>. The exchanges were attempts to extort money from the Complainant's customers by offering investment opportunities. Upon further questioning and when asked for company details, the Respondents sent a link to the genuine Keller Finance Limited company details on United Kingdom Companies House in an effort to persuade the Complainant's customers that they were corresponding with an employee of Keller Finance Limited.

The Complainant also submits, in support of its claims that the disputed domain names have been used for fraudulent purposes, an extract from the United Kingdom Financial Conduct Authority (FCA) website, which shows that the disputed domain names <kellerfin.com> and <keller-fin.com> have been used to impersonate an FCA authorized company, *i.e.*, the Complainant's subsidiary Keller Finance Limited.

B. Respondents

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

C. Complainant's Supplemental Filings

In its February 15 and February 17, 2023 email communications, the Complainant states that it has become aware that the email address provided within the "Contact Us" section of the website at the disputed domain name <kellerfin.com> has been amended from "[...@keller-fin.com]" to "[...@keller-fin.net]" and asserts that the change in the contact email address was due to the fact that the Complainant obtained the suspension of the disputed domain name <keller-fin.com>. The Complainant further asserts that the indication of the new email address based on the disputed domain name <keller-fin.net> clearly shows the connection of this additional domain name with the other two disputed domain names.

In its April 6, 2023 email communication in response to the Procedural Order, the Complainant reiterates the arguments mentioned above, stating that the "malicious party is using the keller-fin.net domain to generate the '[...@keller-fin.net]' email address so that they can continue to contact the Complainant's customers".

6. Discussion and Findings

According to paragraph 15(a) of the Rules: "A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law

that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

- (i) that the disputed domain names registered by the Respondents are identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) that the Respondents have no rights or legitimate interests in respect of the disputed domain names; and
- (iii) that the disputed domain names have been registered and are being used in bad faith.

6.1. Preliminary Procedural Issues: Consolidation of Multiple Respondents, Complainant’s Supplemental Filing, and Addition of a Domain Name after Notification of the Proceeding.

The Complaint was initially filed concerning the two disputed domain names <kellerfin.com> and <keller-fin.com>, which are registered in the name of different registrants according to the information provided by the concerned Registrars to the Center.

Paragraph 10(e) of the Rules provides that a panel shall decide a request by a party to consolidate multiple domain name disputes in accordance with the Policy and the Rules.

As stated in section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), “Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario. Panels have considered a range of factors, typically present in some combination, as useful to determining whether such consolidation is appropriate, such as similarities in or relevant aspects of (i) the registrants’ identity(ies) including pseudonyms, (ii) the registrants’ contact information including email address(es), postal address(es), or phone number(s), including any pattern of irregularities, (iii) relevant IP addresses, name servers, or webhost(s), (iv) the content or layout of websites corresponding to the disputed domain names, (v) the nature of the marks at issue (e.g., where a registrant targets a specific sector), (vi) any naming patterns in the disputed domain names (e.g., <mark-country> or <mark-goods>), (vii) the relevant language/scripts of the disputed domain names particularly where they are the same as the mark(s) at issue, (viii) any changes by the respondent relating to any of the above items following communications regarding the disputed domain name(s), (ix) any evidence of respondent affiliation with respect to the ability to control the disputed domain name(s), (x) any (prior) pattern of similar respondent behavior, or (xi) other arguments made by the complainant and/or disclosures by the respondent(s)”.

The Complainant asserted that the disputed domain names <kellerfin.com> and <keller-fin.com>, although registered in the name of different entities, are under common control since:

- (i) the disputed domain names <kellerfin.com> and <keller-fin.com> both include the Complainant’s trademark KELLER with the term “fin”;
- (ii) the disputed domain names <kellerfin.com> and <keller-fin.com> were registered in September 2022, only 14 days apart; and
- (iii) the “Contact Us” section of the website at <kellerfin.com> provided “[...]@keller-fin.com” as an email address and the Complainant’s customers are also being contacted in fact by individuals with email addresses based on the disputed domain name <keller-fin.com>.

The Panel finds that, notwithstanding the different registrants information provided in the Whois records, the elements highlighted by the Complainant and referenced above demonstrate a common control of the two disputed domain names by the Respondents.

However, as indicated above, the Complainant submitted a Supplemental Filing, after the notification of the Complaint, in which it indicated that the contact email address displayed on the website at the disputed domain name <kellerfin.com> had been amended from an email address based on the disputed domain name <keller-fin.com> (as highlighted by Annex 2 to the Complaint) with an email address based on <keller-fin.net> and requested the addition of the latter domain name to the proceeding.

With regard to supplemental filings, no provisions are made in the Rules or Supplemental Rules, except at the request of the panel according to paragraph 12 of the Rules, which states the panel, in its sole discretion, may request any further statements or documents from the parties it may deem necessary to decide the case. Moreover, according to paragraph 10 of the Rules, the Panel has the authority to determine the admissibility, relevance, materiality, and weight of the evidence, and also to conduct the proceedings with due expedition, ensuring that the Parties are treated with equality and that each Party is given a fair opportunity to present its case.

As to the addition of a domain name following the notification of the Complaint, as stated in section 4.12.2 of the [WIPO Overview 3.0](#), “Except in limited cases where there is clear evidence of respondent gaming/attempts to frustrate the proceedings (e.g., by the respondent’s registration of additional domain names subsequent to complaint notification), panels are generally reluctant to accept such requests because the addition of further domain names would delay the proceedings (which are expected to take place with due expedition). [...] In those cases where panels would grant such a request, the complainant would need to hold relevant trademark rights and the proposed additional domain names would need to be *prima facie* registered by the same or related respondent. Moreover, in the event a panel would grant such a request, it may also order partial or full re-notification of the proceeding (which may impact case timelines)”.

Based on the records, considering that the amendment of the contact email address displayed on the website at the disputed domain name <kellerfin.com> occurred, in all likelihood, after the filing of the Complaint (as the screenshot of the website at the disputed domain name <kellerfin.com> submitted as Annex 2 to the Complaint, showing the prior email address based on the disputed domain name <keller-fin.com>, is dated January 26, 2023, one day before the filing of the Complaint), and in view of the fact that the registrant information for the disputed domain name <keller-fin.net> is shielded in the public Whois records, the Panel finds that the Complainant could not have reasonably been aware of the existence of a connection among the disputed domain name <keller-fin.net> and the other two disputed domain names before the start of the proceeding and, considering the circumstances of the case, deemed appropriate to accept the Complainant’s Supplemental filing and its request for addition of the disputed domain name <keller-fin.net> to the case.

In order to ensure that the Parties be treated equally and be given a fair opportunity to present their case, as detailed in the Procedural History (section 3 above), the Panel issued a Procedural Order in which it requested the Complainant to provide possible further consolidation arguments in light of the registrant information disclosed by the concerned Registrar for the additional disputed domain name <keller-fin.net> and invited the Respondent for the additional disputed domain name <keller-fin.net> to make any submissions regarding the consolidation of the proceedings, and to file a Response in respect of the additional disputed domain name as it may deem appropriate. The Center was also requested to send to the Respondent for the additional disputed domain name the original Notification of Complaint emails and the Complainant’s request for the additional disputed domain name.

Whilst the Complainant replied to the Procedural Order reiterating its arguments concerning the connection of the additional disputed domain name <keller-fin.net> with the other disputed domain names based on the new email address displayed on the website at the disputed domain name <kellerfin.com>, the Respondent for the disputed domain name <keller-fin.net> did not submit any comments in reply to the Procedural Order.

In view of the fact that (i) the additional disputed domain name <keller-fin.net> has the same structure as the disputed domain name <keller-fin.com>, reproducing the trademark KELLER in its entirety with the addition of a hyphen and the term “fin”, (ii) the two disputed domain names <keller-fin.com> and <keller-fin.net> were registered via the same Registrar and in the name of individuals based in Lithuania, and (iii) the email

address previously displayed on the website at <kellerfin.com> was replaced with an address based on <keller-fin.net>, the Panel finds that, on balance of probabilities, the three disputed domain names are under common control, despite being formally registered with different contact details according to the Registrars' Whois records.

In view of the above, this Panel concludes that the consolidation of the three disputed domain names is appropriate in this case and is consistent with the Policy and Rules.

Therefore, the Panel will now proceed to a decision on the merits of the case.

6.2. Substantive Issues

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark KELLER based on the trademark registrations cited under section 4 above and the related trademark certificates submitted as Annexes 4A and 4B to the Complaint.

As highlighted in section 1.7 of the [WIPO Overview 3.0](#), the first element functions primarily as a standing requirement, and the threshold test for confusing similarity typically involves a side-by-side comparison of the domain names and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain names.

The disputed domain names all incorporate the trademark KELLER in its entirety with the addition of the term "fin" (which may be interpreted as an abbreviation of the generic term "finance") and, in the case of the disputed domain names <keller-fin.com> and <keller-fin.net>, also of a hyphen, followed by the Top-Level Domains ("TLDs") ".com" and ".net", which the Panel finds do not prevent confusing similarity.

As found in a number of prior cases decided under the Policy, where a trademark is recognizable within a domain name, the addition of generic or descriptive terms does not prevent a finding of confusing similarity under the first element (section 1.8 of the [WIPO Overview 3.0](#)). Moreover, the applicable TLD in a domain name is viewed as a standard registration requirement and as such are disregarded under the first element confusing similarity test (section 1.11.1 of the [WIPO Overview 3.0](#)).

Therefore, the Panel finds that the Complainant has proven that the disputed domain names are confusingly similar to a trademark in which the Complainant has established rights according to paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

It is well established that the burden of proof lies on the complainant. However, satisfying the burden of proving a lack of the respondent's rights or legitimate interests in respect of the domain name according to paragraph 4(a)(ii) of the Policy is potentially onerous, since proving a negative can be difficult considering such information is often primarily within the knowledge or control of the respondent.

Accordingly, in line with previous UDRP decisions, it is sufficient that the Complainant shows a *prima facie* case that the Respondents lack rights or legitimate interests in the disputed domain names in order to shift the burden of production on the Respondents. If the Respondents fail to demonstrate rights or legitimate interests in the disputed domain names in accordance with paragraph 4(c) of the Policy or on any other basis, the Complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy.

In the case at hand, the Panel finds that the Complainant has made a *prima facie* case and that the Respondents, by not submitting a Response, have failed to invoke any circumstance that could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in the disputed domain names.

According to the evidence on record, there is no relationship between the Complainant and the Respondents, and the Complainant has not authorized the Respondents to register or use its trademark or the disputed domain names.

Moreover, there is no element from which the Panel could infer the Respondents' rights over the disputed domain names, or that the Respondents might be commonly known by the disputed domain names.

One of the disputed domain names, <kellerfin.com>, is registered in the name of Keller Finance Limited. However, in view of the documented attempts made by the Respondents to impersonate the Complainant's namesake subsidiary company and in the absence of a Response, the Panel finds that, on balance of probabilities, the company name Keller Finance Limited was intentionally indicated in the Whois records in a further attempt to pass off as the Complainant's subsidiary.

All three disputed domain names currently do not point to active websites. However, based on the screenshots, the customer reports and the excerpt from the FDA website submitted by the Complainant, the disputed domain names <kellerfin.com> and <keller-fin.com> have been used in connection with a scam/phishing scheme aimed at attempting to extort money to third parties passing off as the Complainant's subsidiary Keller Finance Limited. Indeed, as highlighted in the screenshot submitted as Annex 2 to the Complaint, the disputed domain name <kellerfin.com> was resolved to a website mentioning in the "Contact Us" section Keller Finance Limited and indicating an email address based on the disputed domain name <keller-fin.com> which, along with other email addresses based on both disputed domain names, was used to deliver fraudulent communications spending the name of the Complainant's subsidiary Keller Finance Limited. In view of the fact that the email address displayed on the website at the disputed domain name <kellerfin.com> was subsequently replaced with an email address based on the disputed domain name <keller-fin.net>, it is likely that the Respondents used, or intended to use, also this additional disputed domain name in connection with the same fraudulent scheme.

The Panel finds that the Respondents' use of the disputed domain names does not amount to a *bona fide* offering of goods or services or a legitimate noncommercial or fair use without intent for commercial gain to misleadingly divert consumers or to tarnish the Complainant's trademark.

Indeed, as stated in section 2.13.1 of the [WIPO Overview 3.0](#), "[p]anels have categorically held that the use of a domain name for illegal activity, including phishing, impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent".

Therefore, the Panel finds that the Complainant has proven that the Respondents have no rights or legitimate interests in the disputed domain names according to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(a)(iii) of the Policy requires that the Complainant prove that the disputed domain names were registered and are being used by the Respondent in bad faith.

As to bad faith at the time of the registration, the Panel notes that, in light of (i) the prior registration and use of the Complainant's trademark KELLER in connection with the Complainant's services, provided in several countries and promoted online via the Complainant's website "www.keller.com"; (ii) the use of the company name Keller Finance Limited of the Complainant's subsidiary as registrant name of the disputed domain name <kellerfin.com> as well as on the website corresponding to this disputed domain name; (iii) the composition of the disputed domain names, combining the trademark KELLER with the term "fin", which may be interpreted as an abbreviation for "finance", clearly referred to the activity of the Complainant's subsidiary Keller Finance Limited; and (iv) the explicit references to the Complainant's subsidiary company made on the website at the disputed domain name <kellerfin.com> and the email communications delivered from email address based on the disputed domain name <keller-fin.com> and the other evidence submitted by the Complainant - and not contested by the Respondents - as to the use of the disputed domain names for

impersonation purposes, the Respondents were clearly aware of, and intended to target, the Complainant and its subsidiary company Keller Finance Limited.

As to the use of the disputed domain names, the Panel notes that <kellerfin.com> was previously resolved to a website promoting financial services and displaying the contact details of a company named Keller Finance Limited allegedly located in the United Kingdom - like the Complainant's subsidiary company - and displaying an email address based on the disputed domain name <keller-fin.com>.

The Panel finds that such use of the disputed domain names amounts to bad faith under paragraph 4(b)(iv) of the Policy, since the Respondents intentionally attempted to attract Internet users to such website for commercial gain by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the website and the services advertised therein.

According to the evidence submitted by the Complainant, the disputed domain name <keller-fin.com> has been used to deliver fraudulent email communications by individuals passing off as employees of the Complainant's subsidiary Keller Finance Limited and aiming at extorting money to recipients. In view of the replacement of the contact email address displayed on <kellerfin.com> with another email address based on <keller-fin.net> - which apparently occurred after the filing of the Complaint and the suspension of the disputed domain name <keller-fin.com> by the concerned Registrar - it is likely that the Respondents used, or intended to use, also the disputed domain name <keller-fin.net> for the same fraudulent purposes.

As stated in section 3.4 of the [WIPO Overview 3.0](#), “[p]anels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution. [...] Many such cases involve the respondent's use of the domain name to send deceptive emails, e.g., to obtain sensitive or confidential personal information from prospective job applicants, or to solicit payment of fraudulent invoices by the complainant's actual or prospective customers”.

The Panel notes that all the disputed domain names do not currently resolve to any active websites and have been suspended.

As stated in section 3.3 of the [WIPO Overview 3.0](#), the “passive holding” or non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding.

In the case at hand, in view of (i) the degree of distinctiveness and reputation of the Complainant's trademark KELLER, (ii) the failure of the Respondents to submit a Response or to provide any evidence of actual or contemplated good-faith use, (iii) the prior documented use of at least two of the disputed domain names in connection with a fraudulent scam/phishing scheme aimed at extorting money to users passing off as the Complainant's subsidiary company, and (iv) given the substitution of the disputed domain name <keller-fin.net> in place of the previously displayed disputed domain name <keller-fin.com> as an email address on the impersonating website found at the disputed domain name <kellerfin.com>, there is no conceivable good-faith use to which the disputed domain name <keller-fin.net> could be put to use, the Panel finds that the current passive holding of the disputed domain names does not prevent a finding of bad faith use.

Therefore, the Panel finds that the Complainant has also proven that the disputed domain names have been registered and are being used in bad faith according to paragraph 4(a)(iii) 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 names <kellerfin.com>, <keller-fin.com>, and <keller-fin.net> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: April 28, 2023