

ADMINISTRATIVE PANEL DECISION

Skopos Financial, LLC v. Tanongchai Wassanapianpong Case No. D2023-3681

1. The Parties

The Complainant is Skopos Financial, LLC, United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

The Respondent is Tanongchai Wassanapianpong, Thailand.

2. The Domain Names and Registrar

The disputed domain names <reprisefinancialy.com> and <reprisesfinancial.com> are registered with Internet Domain Service BS Corp (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 1, 2023. On September 1 and September 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On September 5 and September 26, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent (Domain Admin) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 29, 2023, 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 October 2, 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 October 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 25, 2023.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on November 8, 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.

4. Factual Background

According to the Complainant's undisputed allegations, the Complainant is a financial auto lender that provides loans to individuals and families to help purchase new or used vehicles. Complainant founded the REPRISE FINANCIAL mark in 2021, with the goal to provide individuals with a simple and reliable way to receive funds for life's unexpected events (i.e. emergencies, bill consolidation, home improvement, vacation type of loans, etc.). The Complainant provides loans from USD 2,500 to USD 25,000 and has funded over USD 1.4 billion in loans to date.

The Complaint is based amongst others on United States Trademark Registration for REPRISE FINANCIAL, registered with no. 6791485 on July 12, 2022 (first use in commerce: March 3, 2022) for services in class 36.

The Respondent registered the disputed domain names on June 26, 2023 (<reprisefinancialy.com>) and on August 1, 2023 (<reprisesfinancial.com>) respectively. The language of the Registration Agreements is English.

It further results from the Complainant's documented allegations, which remain undisputed, that the disputed domain names resolve to a website that purports to offer financial services which are identical to those offered by the Complainant. The Panel further notes that under the disclaimer notice, the website provides an email address ("[...]@RepriseFinancial.com") which links back to the Complainant's original domain name.

Finally, the Complainant provided undisputed evidence that it sent a cease-and-desist letter to the Respondent via email on July 11, 2023, however, it did not receive any reply.

5. Parties' Contentions

A. Complainant

Firstly, the Complainant contends that the disputed domain names are confusingly similar to the Complainant's registered trademark REPRISE FINANCIAL, as they consist of an intentional misspelling of said trademark.

The Complainant, secondly, submits that the Respondent has no rights or legitimate interests in the disputed domain names, since they are used for a webpage that purports to offer financial services identical to those of the Complainant. Such use cannot be construed as a legitimate noncommercial, or fair use of the disputed domain names, as the Respondent is using the Complainant's REPRISE FINANCIAL mark to divert traffic to their website in order to impersonate the Complainant and its services, thereby making a commercial gain from it.

Thirdly, the Complainant contends that the Respondent registered and is using the disputed domain names in bad faith. In the Complainant's view, the Respondent has clearly registered the disputed domain names to target the Complainant's brand intentionally. The Respondent was given the opportunity to provide evidence of any actual or contemplated good faith use but chose not to respond. Therefore, the Complainant submits that this is further evidence of bad faith. Finally, the Respondent's use of the disputed domain names to pass off as the Complainant and sell identical services is an indication of bad faith use.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs this Panel to “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”.

Furthermore, paragraph 4(a) of the Policy requires the Complainant to prove each of the following three elements in order to obtain an order that the disputed domain name should be transferred or cancelled:

- (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.

The Panel is satisfied that the registrant of record for the disputed domain names is the Respondent and will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

A. Identical or Confusingly Similar

Pursuant to paragraph 4(a)(i) of the Policy, the Complainant must establish rights in a trademark or service mark and secondly establish that the disputed domain names are identical or confusingly similar to a trademark in which the Complainant has rights.

It results from the evidence provided, that the Complainant is the registered owner of United States trademark Registration for REPRISE FINANCIAL, registered with no. 6791485 on July 12, 2022.

Many UDRP panels have found domain names which consist of a common, obvious, or intentional misspelling of a trademark to be confusingly similar to the relevant mark for purposes of the first element. This stems from the fact that the domain name contains sufficiently recognizable aspects of the relevant mark (cf. section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). This Panel shares the same view and notes that the Complainant's registered trademark REPRISE FINANCIAL is included in full in the disputed domain names, the only difference being the additional final “y” (in <reprisefinancialy.com>) and the additional “s” between the two verbal elements composing the trademark (in <reprisesfinancial.com>). As a result, the Panel holds that the trademark remains clearly recognizable within these disputed domain names.

Finally, the generic Top-Level Domain (“gTLD”) “.com” is viewed as a standard registration requirement and is as such to be typically disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11.1).

In the light of the above, the Panel finds that the disputed domain names are confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(a)(ii) of the Policy, the Complainant must secondly establish that the Respondent has no rights or legitimate interests in respect of the disputed domain names.

Paragraph 4(c) of the Policy contains a non-exhaustive list of circumstances which, if found by the Panel to be proved, shall demonstrate the Respondent's rights or legitimate interests to the disputed domain name. In the Panel's view, based on the undisputed allegations stated above, the Complainant has made a *prima facie* case that none of these circumstances are found in the case at hand and, therefore, that the Respondent lacks rights or legitimate interests in the disputed domain names.

It results from the Complainant's undisputed allegations that the disputed domain names resolve to a website that purports to offer financial services identical to those offered by the Complainant. The Panel further notes that, under the disclaimer notice, said website provides an email address ("[...]@RepriseFinancial.com") which links back to the Complainant's original domain name. The Panel assesses this use as being commercial, so that it cannot be considered a legitimate, noncommercial or fair use of the disputed domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue pursuant to paragraph 4(c)(iii) of the Policy.

Furthermore, such use as described above cannot be qualified as a *bona fide* offering of goods or services in accordance with paragraph 4(c)(i) of the Policy. In fact, this Panel considers that a registrant has no rights or legitimate interests in domain names that are similar to a third party's mark, where the composition of the domain names is associated with the business of the trademark holder, and that is being used to address consumers in the same business as the trademark holder operates (see section 2.5 of the [WIPO Overview 3.0](#)).

In addition, the Panel notes that there is no evidence showing that the Respondent might be commonly known by the disputed domain names in the sense of paragraph 4(c)(ii) of the Policy.

Finally, previous UDRP panels have found that once the panel finds a *prima facie* case is made by a complainant, the burden of production under the second element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain names. Since the Respondent in the case at hand failed to come forward with any allegations or evidence, this Panel finds, in the circumstances of this case, that the Respondent has no rights or legitimate interests in the disputed domain names.

The Complainant has therefore satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must thirdly establish that the disputed domain names have been registered and are being used in bad faith. The Policy indicates that certain circumstances specified in paragraph 4(b) of the Policy may, "in particular but without limitation", be evidence of the disputed domain names' registration and use in bad faith.

One of these circumstances is that the respondent by using the disputed domain names, has intentionally attempted to attract, for commercial gain, Internet users to its 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 its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

It is the view of this Panel that these circumstances are met in the case at hand. It results from the Complainant's undisputed allegations that the disputed domain names resolve to a website that purports to offer financial services identical to those offered by the Complainant. The Panel further notes, that under the disclaimer notice, said website provides an email address ("[...]@RepriseFinancial.com") which links back to the Complainant's original domain name. For the Panel, it is therefore evident that the Respondent positively knew the Complainant's REPRISE FINANCIAL mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain names included the Complainant's trademark when it registered those domain names, having registered them due to their similarity with the Complainant's REPRISE FINANCIAL mark. Registration of a domain

name which contains a third party's mark, in awareness of said mark, to take advantage of its similarities with the mentioned mark, and in the absence of rights or legitimate interests amounts to registration in bad faith.

The finding of bad faith registration and use is supported by the further circumstances resulting from the case at hand which are:

- (i) the disputed domain names fully incorporate the Complainant's trademark REPRISE FINANCIAL which predates the registration of the disputed domain names;
- (ii) the Respondent's failure to reply to the pre-complaint warning letter and to submit a response to the Complaint;
- (iii) the Respondent's failure to provide any evidence of actual or contemplated good faith use;
- (iv) the implausibility of any good faith use to which the disputed domain names may be put;
- (v) the fact that the details disclosed for the Respondent by the Registrar were incomplete, noting the mail courier's inability to deliver the Center's written communications.

In the light of the above, the Panel finds that the disputed domain names have been registered and are being used in bad faith pursuant 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 <reprisefinancialy.com> and <reprisesfinancial.com> be transferred to the Complainant.

/Tobias Malte Müller

Tobias Malte Müller

Sole Panelist

Date: November 22, 2023