

ADMINISTRATIVE PANEL DECISION

Alpha Bank S.A. v. Pawel Szablowski, Pawel Szablowski
Case No. D2024-0237

1. The Parties

The Complainant is Alpha Bank S.A., Greece, represented by Ubilibet, Spain.

The Respondent is Pawel Szablowski, Pawel Szablowski, Poland.

2. The Domain Name and Registrar

The disputed domain name <alpha.finance> (the “Disputed Domain Name”) is registered with Sav.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2024. On January 19, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On January 22, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 23, 2024, providing the Notice of Change - Multiple Underlying Registrants and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant requested to separate the proceedings and filed an amended Complaint on February 1, 2024.

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 26, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 17, 2024. The Response was filed with the Center on March 15, 2024.

The Center appointed Nick J. Gardner as the sole panelist in this matter on March 22, 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 is a Greek Bank. It is a substantial organisation. As of September 2023, its annual revenue was around EURO 520 million. Its activities appear to be carried out largely if not entirely in Greece, Cyprus, and the Balkan countries although it also has an office in London. It is well known in the countries it operates in and its reputation may extend more widely especially in relation to persons interested in banking. It has won various awards. It holds various registered trademarks for the term ALPHA BANK (see for example UK00905282918 registered on August 29, 2006). These trademarks are referred to as the "ALPHA BANK" trademark in this decision.

The Respondent is a professional investor and trader in domain names. He registered the Disputed Domain Name on April 28, 2023. It has been offered for sale at a price of USD 19,999.

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 Respondent cannot in any way credibly claim to have been unaware of the existence of the Complainant's ALPHA BANK trademark and the evident business interest of the Complainant in the Disputed Domain Name.

The Complainant says the following: "In broad terms, engaging in the registration and retention of domain names, typically for the purpose of resale, that encompass acronyms, dictionary words, or common phrases – a practice seemingly undertaken by the Respondent – is not inherently considered illegitimate under the Policy, as long as it is carried out without the intention of specifically targeting a particular trademark holder. However, this last condition is not satisfied in the case giving rise to this Complaint." This allegation by the Complainant is discussed further below.

The Complainant also says that the price the Respondent seeks for the Disputed Domain Name is indicative of bad faith – being far higher than is being asked in comparison for example to USD 800 for <alpha.pub>.

B. Respondent

The main points the Respondent makes are as follows.

The registration and retention of domain names, including those containing common words or phrases, is a legitimate practice as long as it is not carried out with the intention of specifically targeting a particular trademark holder. It categorically denies any intention of targeting the Complainant or any other entity. It says it registered the Disputed Domain Name for its intrinsic value as a dictionary word.

The Respondent then says the fact that the Complainant holds a trademark for the term "Alpha" does not automatically grant it exclusive rights to every domain name containing that word. "Alpha" is a dictionary word, and there are likely hundreds of companies worldwide that incorporate this term in their names or branding.

The Respondent says it is important to note that trademark holders are provided with the first opportunity to secure domain names corresponding to their trademarks during the 'Sunrise' period of any new Top Level Domain ("TLD") launch. The ".finance" TLD has had such a Sunrise period, during which the Complainant could have tried to register any domain matching their trademarks. Their failure to do so should not become the Respondent's liability nor a reason to question the legitimacy of its domain registration.

The Respondent says that the listed price of USD19,888 is fair and reasonable, reflecting the inherent value of what is a premium domain name. It says the comparison with <alpha.pub> is not appropriate.

The Respondent says that the claim that it cannot credibly claim to be unaware of the Complainant's trademark and business interests is unfounded. Given the vast number of businesses and trademarks globally, it is unreasonable to expect that a company based in Poland – or indeed in any country – would be aware of all businesses, especially those operating predominantly in other countries. The Respondent says registration of the Disputed Domain Name was conducted in good faith, based on the general principle that domain names incorporating dictionary terms are legitimately available for registration, provided they are not sought for the purpose of exploiting the reputation of existing trademarks.

6. Discussion and Findings

To succeed, in accordance with paragraph 4(a) of the Policy, the Complainant must satisfy the Panel that:

- (i) the Disputed Domain Name is identical with or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name;
- (iii) the Disputed Domain Name has been registered and is being used in bad faith.

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 rights in the ALPHA BANK trademark. It is also well established that the TLD, in this case ".finance", is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. See [WIPO Overview 3.0](#) at section 1.11. The Disputed Domain Name comprises the word "alpha" which is the distinctive element in the ALPHA BANK trademark. As such it is confusingly similar to the Complainant's trademark.

Accordingly, the Panel finds that the Disputed Domain Name is identical with or confusingly similar to the Complainant's trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

In view of the Panel's findings on bad faith (below) it is not necessary to determine this issue

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith includes:

(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.

The Complainant says this is the case here as the Respondent either knew or should have known of the Complainant when it registered the Disputed Domain Name and did so because of its likely value to the Complainant. The Respondent seems to suggest this was not the case although the Response is not completely clear in this respect. The Panel is not sure it agrees with the Complainant that its size and fame is such that the Respondent must have known of and targeted it. The Complainant's activity is in a relatively limited geographic area and there is no evidence it has any fame or reputation in Poland where the Respondent is based. However the Panel does not consider this issue to be determinative. Even if the Respondent was aware of the Complainant (whether by actual knowledge or any of the principles the Complainant refers to as showing the Respondent "should have known") it does not follow that the Complainant was the only party that would necessarily have a potential interest in the Disputed Domain Name and that the Respondent must have registered the Disputed Domain Name for that reason.

The principal difficulty the Complainant faces in this regard is the point the Respondent makes which is that the word "alpha" is a dictionary word likely to be used by very many businesses and a domain name including this term is likely of intrinsic value for that reason. "Alpha" is the word in English (and possibly in other languages) which refers to the first letter of the Greek alphabet. It is widely used as symbol in science and mathematics in particular. "Alpha" both as a symbol and term, is commonly used to refer to the "first", or "primary", or "principal" (most significant) occurrence or status of a thing. As such it is a word with positive connotations which increases the attractiveness of a domain name including that term.

The fact that in the Disputed Domain Name the term "alpha" is combined with the gTLD "finance" does not in the circumstances of this case in the Panel's opinion alter the above analysis. It is an inherently attractive name likely to be of potential interest to many organisations. Clearly "finance" is directly relevant to the Complainant's area of activity. That does not however mean that it is likely to be the only business in that area of activity using the term "alpha". A simple Google search carried out by the Panel in the UK in respect of "alpha finance" confirms that is the case. As well as returning entries relating to the Complainant the following organisations were identified in the first 20 or so returned results – Alpha Asset Finance (a UK company); Alpha Financial Markets Consulting (a UK company); Alpha Finance Solutions (a UK accountancy firm); Alpha Group (A UK listed fintech consulting business). It also appears from the search that the word "alpha" is a term with a specific technical meaning in the finance world, relating to the ratio between a fund's performance and a specific index. The Panel concludes that there are likely to be many organisations in existence internationally who would at least potentially be interested in the Disputed Domain Name as being directly relevant to their business, and which were entirely unrelated to the Complainant. That being so it seems to the Panel there is prima facie no bad faith where a professional domain name investor acquires the Disputed Domain Name which is a dictionary word, providing it does so without seeking to target or take advantage of a specific trademark holder – certainly there may factual scenarios where the evidence shows that such targeting is present; there is however no such evidence of targeting here.

See in this regards *Montane Ltd. v. Orion Global Assets*, WIPO Case No. [D2017-0309](#) where the panel said "Similarly, there is no evidence before the Panel that the Respondent's use of the disputed domain name sets out to target the Complainant or its MONTANE mark. The Respondent is making a general offer of sale of a domain name consisting of a term which might be of interest to a variety of entities. This is not an activity that is condemned by the Policy unless it is accompanied by some indicia of bad faith and in the Panel's view there is no such indicia to be found on the present record".

The Complainant itself acknowledges the position in the following terms: "In broad terms, engaging in the registration and retention of domain names, typically for the purpose of resale, that encompass acronyms, dictionary words, or common phrases – a practice seemingly undertaken by the Respondent – is not inherently considered illegitimate under the Policy, as long as it is carried out without the intention of specifically targeting a particular trademark holder. However, this last condition is not satisfied in the case

giving rise to this Complaint.” The relevant evidence however does not support the statement in the final sentence – there is no evidence at all that the Respondent had any intention of specifically targeting the Complainant.

The Panel does not consider that the price sought by the Respondent here is particularly illuminating here in terms of an argument concerning bad faith. In general terms if a domain name is legitimately held it can be offered for sale at whatever price the registrant wishes; while there may be specific situations where a particular price may show bad faith targeting of a trademark owner (e.g., a very high sale price where there is only one (or a limited number of) realistic purchaser(s)) that is not the case here. Comparisons of prices sought for the same term in other gTLDs may be relevant but would require an explanation of their particular relevance to the situation in front of the panel; here there is no such evidence.

Accordingly, the Panel concludes the Complainant has failed to discharge its burden of proof and has failed to establish that the third condition of paragraph 4(a) of the Policy has been fulfilled.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: April 7, 2024