

ADMINISTRATIVE PANEL DECISION

SunLife Limited v. Gabriel Ybarra, SunLife
Case No. D2024-0353

1. The Parties

The Complainant is SunLife Limited, United Kingdom, represented by Pinsent Masons LLP, United Kingdom.

The Respondent is Gabriel Ybarra, SunLife, Thailand.

2. The Domain Name and Registrar

The disputed domain name <sunlifeofficial.com> is registered with Squarespace Domains II LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 26, 2024. On January 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 26, 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 (Name Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 29, 2024, 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 January 29, 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 January 31, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 23, 2024.

The Center appointed Assen Alexiev as the sole panelist in this matter on February 28, 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 financial services company established in 1810 in the United Kingdom. In 2017, the Complainant became part of the Phoenix Group.

The Complainant is the owner of the United Kingdom trademark SUNLIFE with registration No. UK00003025092, registered on February 7, 2014, for services in International Classes 35 and 36 (the "SUNLIFE trademark").

The Complainant is also the owner of the domain name <sunlife.co.uk> registered on June 12, 2006, which resolves to its official website.

The disputed domain name was registered on May 24, 2023. It is currently inactive.

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.

The Complainant states that the disputed domain name is confusingly similar to its SUNLIFE trademark, because it wholly incorporates the trademark, and the addition of the word "official" suggests that the website at the disputed domain name is the official website of the Complainant.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name. It points out that the disputed domain name was registered in 2023, and to date it has not been used in connection with a bona fide offering of goods and/or services and in connection with a legitimate business. The Complainant adds that the Respondent's actions amount to a passive holding of the disputed domain name.

The Complainant maintains that the SUNLIFE trademark is associated with it and its business of providing financial services, and the reputation and goodwill of this trademark are a direct result of the Complainant's legitimate activities over the last 200 years. In the Complainant's view, no individual would choose to register the disputed domain name other than to attract Internet users who are searching for the Complainant, thereby taking advantage of the goodwill and reputation of the SUNLIFE trademark. According to the Complainant, the Respondent registered the disputed domain name with knowledge of the Complainant's activities and reputation. The Complainant states that the Respondent has no connection with the Complainant, is not commonly known by the disputed domain name and has not acquired any rights in respect of the disputed domain name, and has not been authorized to use the Complainant's SUNLIFE trademark.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the Respondent was aware of the Complainant's SUNLIFE trademark when registering the disputed domain name, and deliberately included this trademark in the disputed domain name to impersonate the Complainant and deceive Internet users to unfairly exploit the goodwill of the SUNLIFE trademark. According to the Complainant, the Respondent will never be capable of using the disputed domain name for legitimate purposes, as the notoriety and reputation of the SUNLIFE trademark is such that members of the public will always assume that there is an association between the Respondent and the Complainant.

B. Respondent

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

6. Discussion and Findings

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 shown rights in respect of the SUNLIFE trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the SUNLIFE trademark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the SUNLIFE trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms (here, "official") may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the SUNLIFE trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The Panel therefore finds that the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

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

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel under its general powers articulated, inter alia, in paragraph 10 of the Rules, has conducted a search over the Internet regarding the terms "sunlife official" and "sunlife thailand" (where the Respondent is purportedly located), which reveals the Complainant and its trademark, as well as the extensive presence over the Internet of its business.

As noted by the Complainant, the combination of the SUNLIFE trademark with the dictionary word "official" suggests that the disputed domain name would lead to the official website of the SunLife business carried out by the Complainant. The Respondent has not denied this and has not provided any plausible explanation of its choice of a domain name and of its plans how to use it. In view of this, the Panel finds that the Complainant's prima facie case has remained unrebutted.

On this basis, the Panel finds that the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's SUNLIFE trademark that has been used for over 200 years, the composition of the disputed domain name, which suggests that it resolves to the Complainant's official website, and the failure of the Respondent to submit a Response. In view of this, the Panel finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

The Panel finds that the Complainant has established the third element 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 name <sunlifeofficial.com> be transferred to the Complainant.

/Assen Alexiev/

Assen Alexiev

Sole Panelist

Date: March 7, 2024