

## **ADMINISTRATIVE PANEL DECISION**

BlackRock, Inc. v. Daniel Killahan

Case No. D2022-1665

### **1. The Parties**

The Complainant is BlackRock, Inc., United States of America (“United States”), represented by Day Pitney LLP, United States.

The Respondent is Daniel Killahan, United Kingdom.

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

The disputed domain name <blackrock-newzealand.com> is registered with Nicenic International Group Co., Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 6, 2022. On May 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 9, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on May 10, 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 May 12, 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 May 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 2, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on June 3, 2022.

The Center appointed Tobias Zuberbühler as the sole panelist in this matter on June 13, 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 an asset management firm founded in 1988 and a well-known provider of global investment management, risk management and advisory services to institutional, intermediary, and individual investors around the world.

The Complainant owns trademark registrations in various jurisdictions, including the United States trademark BLACKROCK (Reg. No. 2417737, registered on January 2, 2001), the United States trademark BLACKROCK (Reg. No. 3544707, registered on December 9, 2008), and the New Zealand trademark BLACKROCK (Reg. No. 790154, registered on December 4, 2008).

The Complainant further holds the domain name <blackrock.com> under which the official website of the Complainant is available. The Complainant advertises and sells its services through its <blackrock.com> domain name.

The disputed domain name was created on January 30, 2022, and resolves to an inactive website. From an email address incorporating the disputed domain name, fraudulent emails impersonating the Complainant were sent, for the purpose of soliciting payment and personal information from the Complainant's clients under the guise of providing investment opportunities.

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

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

The Complainant alleges that it has satisfied all elements of the Policy, paragraph 4.

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

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

#### **6. Discussion and Findings**

On the basis of the facts and evidence introduced by the Complainant, and with regard to paragraphs 4(a), (b) and (c) of the Policy, the Panel concludes as follows:

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

The Complainant has submitted sufficient evidence to demonstrate its registered rights in the BLACKROCK trademark.

The BLACKROCK trademark is wholly reproduced in the disputed domain name.

A domain name is "identical or confusingly similar" to a trademark for the purposes of the Policy when the domain name includes the trademark, or a confusingly similar approximation, regardless of other terms in the domain name (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). As stated in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8, "[w]here the relevant trademark is recognizable within the disputed domain

name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. The nature of such additional term(s) may however bear on assessment of the second and third elements". Hence, the Panel holds that the addition of the term "newzealand" to the Complainant's BLACKROCK trademark does not prevent a finding of confusing similarity between the disputed domain name and the Complainant's trademark.

The Complainant has thus fulfilled the requirements of paragraph 4(a)(i) of the Policy.

### **B. Rights or Legitimate Interests**

There are no indications before the Panel of any rights or legitimate interests of the Respondent in respect of the disputed domain name. The Complainant contends that the Respondent is neither affiliated with the Complainant nor making any *bona fide* use of the disputed domain name.

The Complainant has provided evidence that the Respondent used an email address utilizing the "@blackrock-newzealand.com" extension to conduct a fraud scheme while taking advantage of the Complainant's trademark notoriety. Such use can never confer rights or legitimate interests on a respondent. See [WIPO Overview 3.0](#), section 2.13.

Furthermore, the composition of the disputed domain name, wholly incorporating the Complainant's trademark and a geographical term, cannot constitute fair use in these circumstances as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See [WIPO Overview 3.0](#), section 2.5.1.

Based on the Complainant's credible contentions, the Panel finds that the Complainant, having made out a *prima facie* case which remains unrebutted by the Respondent, has fulfilled the requirements of paragraph 4(a)(ii) of the Policy.

### **C. Registered and Used in Bad Faith**

Under the circumstances of this case, including the composition of the disputed domain name and reputation of the Complainant's trademark, it can be inferred that the Respondent was aware of the Complainant's trademark when registering the disputed domain name.

The Panel finds that the reproduction of the Complainant's trademark along with the term "newzealand" creates a likelihood of confusion between the Complainant's trademark and the disputed domain name.

The evidence and allegations submitted by the Complainant support a finding that the Respondent was engaged in an attempt to pass himself off as the Complainant to conduct a fraud scheme by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of his website for his own commercial benefit. The Respondent therefore used the disputed domain name in bad faith (see *Claudie Pierlot v. Yinglong Ma*, WIPO Case No. [D2018-2466](#)).

Accordingly, the Complainant has also fulfilled 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 name <blackrock-newzealand.com> be transferred to the Complainant.

*/Tobias Zuberbühler/*

**Tobias Zuberbühler**

Sole Panelist

Date: June 20, 2022