

ADMINISTRATIVE PANEL DECISION

Ripplewood Advisors, LLC v. PVA BALEAR

Case No. D2023-3461

1. The Parties

The Complainant is Ripplewood Advisors, LLC, United States of America (“United States”), represented by Squire Patton Boggs (US) LLP, United States of America.

The Respondent is PVA BALEAR, Spain.

2. The Domain Names and Registrar

The disputed domain names <ripplewoodequity.com> and <ripplewood-equity.com> (the “Disputed Domain Names”) are registered with HOSTINGER operations, UAB.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 16, 2023. On August 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On August 18, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on the same day 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 amendment to the Complaint on August 22, 2023.

The Center verified that the Complaint together with the amendment to the 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 August 23, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 13, 2023.

The Center appointed Nicholas Weston as the sole panelist in this matter on September 18, 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

The Complainant is a Delaware limited liability company founded in 1995 that operates an investment business and has deployed more than USD6 billion in equity investments since its inception. The Complainant is an authorized user of United States registration No. 3,144,289 for the trademark RIPPLEWOOD registered on September 19, 2006 for services related to financial advisory services and investment services.

The Disputed Domain Name <ripplewoodequity.com> was registered on July 12, 2023 and resolved to a fake website with content relating to the Complainant, that purported to be a genuine website operated by the Complainant. The Disputed Domain Name <ripplewood-equity.com> was registered on July 24, 2023 and resolved to a webpage bearing the Complainant's trademark. Currently, both Disputed Domain Names are inactive.

5. Parties' Contentions

A. Complainant

The Complainant cites its trademark registration for the mark RIPPLEWOOD in the United States, as *prima facie* evidence of ownership.

The Complainant submits that its rights in that mark RIPPLEWOOD predate the Respondent's registration of the Disputed Domain Names. It submits that the Disputed Domain Names are confusingly similar to its trademark, because the Disputed Domain Names are comprised of the RIPPLEWOOD trademark with the addition, it submits, of the term "equity", and in the case of <ripplewood-equity.com>, a hyphen. It also submits that the confusing similarity is not removed by the addition of the hyphen or the word "equity", or the generic Top-Level Domain ("gTLD") ".com".

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because "[t]he Respondent is using the Disputed Domain Names to operate a site through which the Respondent offers investment services masquerading as the Complainant and its affiliated entities" and none of the circumstances set out in paragraph 4(c) of the Policy apply.

Finally, the Complainant alleges that the registration and use of the Disputed Domain Names were, and currently are, in bad faith, contrary to the Policy and the Rules having regard to the prior use and nature of the Complainant's trademark, and advances the argument that "Respondent's clear intent is to (a) use the RIPPLEWOOD Trademark to lure potential investors to its Website describing a fraudulent investment entity, and (b) to misleadingly divert consumers to the Disputed Domain Names under the false pretense that the Disputed Domain Names are endorsed by, sponsored by, or affiliated with Complainant".

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant has the burden of proving the following:

- (i) that the Disputed Domain Names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has 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.

A. Identical or Confusingly Similar

The Complainant has produced sufficient evidence to demonstrate that it has registered trademark rights in the mark RIPPLEWOOD. The requirements of the first element for purposes of the Policy may be satisfied by a trademark registered in any country (see WIPO Overview of WIPO Panel Views on Selected URDP Questions, Third Edition ([“WIPO Overview 3.0”](#)), section 1.2.1).

Turning to whether the Disputed Domain Names are identical or confusingly similar to the RIPPLEWOOD trademark, the Panel observes that the Disputed Domain Names comprise:

- In the case of <ripplewoodequity.com> (a) the Complainant’s RIPPLEWOOD trademark; (b) followed by the word “equity”; (c) followed by the gTLD “.com”.
- In the case of <ripplewood-equity.com> (a) the Complainant’s RIPPLEWOOD trademark; (b) followed by a hyphen; (c) followed by the word “equity”; and (d) followed by the gTLD “.com”.

It is well established that the gTLD used as part of a domain name is generally disregarded under the first element confusing similarity test ([WIPO Overview 3.0](#), section 1.11.1). The relevant comparison to be made is with the second-level portion of the Disputed Domain Names, specifically: “ripplewoodequity” and “ripplewood-equity”, respectively.

On conducting a side-by-side comparison of the Disputed Domain Names and the textual components of the relevant trademark, it is apparent that as the relevant mark is incorporated in its entirety and as such is recognizable in each of the Disputed Domain Names, the addition of the hyphen or the word “equity” would not prevent a finding of confusing similarity under the first element. This Panel therefore finds that the Disputed Domain Names are confusingly similar to the Complainant’s RIPPLEWOOD trademark for purposes of UDRP standing (see [WIPO Overview 3.0](#), section 1.7).

Accordingly, the Panel finds that the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy lists the ways that the Respondent may demonstrate rights or legitimate interests in the Disputed Domain Names. The Policy also places the burden on the Complainant to establish the absence of the Respondent’s rights or legitimate interests in the Disputed Domain Names. Because of the inherent difficulties in proving a negative, the consensus view is that the Complainant need only put forward a *prima facie* case that the Respondent lacks rights or legitimate interests. The burden of production then shifts to the Respondent to rebut that *prima facie* case (see [WIPO Overview 3.0](#), section 2.1).

The Complainant contends, in summary, that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names because (i) the Disputed Domain Names are being used for phishing or to promote a fraudulent business undertaking; (ii) the Respondent has not acquired or owned any trademark or service mark rights in the name RIPPLEWOOD, and has not been commonly known by the name

RIPPLEWOOD; (iii) the Respondent is not making a legitimate noncommercial or fair use of the Disputed Domain Name without intent for commercial gain; and (iv) that the Respondent's webpages are adorned with the Complainant's trademark and content relating to the Complainant.

The composition of the Disputed Domain Names, which each consist of the Complainant's trademark together with the word "equity", and in one case, a hyphen, does, in this Panel's view, indicate an awareness and targeting of the Complainant with the intention to take unfair advantage of its trademark, which does not support a finding of any rights or legitimate interests.

The Panel notes the evidence that the Disputed Domain Names in this proceeding resolve respectively to a fake webpage (in the case of <ripplewoodequity.com>) and to a webpage bearing the Complainant's trademark (in the case of <ripplewood-equity.com>) supports the Complainant's submissions on that point and finds that these do not represent a *bona fide* offering of goods or services, or a legitimate noncommercial or fair use, given the substantial reputation and goodwill of the Complainant's mark or capacity to otherwise mislead Internet users. On balance, the Panel is satisfied that a *prima facie* case exists that the Respondent lacks rights or legitimate interests. In view of the evidence that calls for an explanation from the Respondent, and in the absence of a Response, this Panel finds that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Names.

The Panel finds for the Complainant on the second element of the Policy.

C. Registered and Used in Bad Faith

The third element of the Policy that the Complainant must also demonstrate is that the Disputed Domain Names have been registered and used in bad faith. Paragraph 4(b) of the Policy sets out certain circumstances to be construed as evidence of both of these conjunctive requirements.

The Panel finds that the evidence in the case shows the Respondent registered and has used the Disputed Domain Names in bad faith.

On the issue of registration, taking into account the composition of the Disputed Domain Names and the distinctive nature of the Complainant's trademark, the Panel is satisfied that the Respondent knew of and targeted the Complainant's well-known trademark RIPPLEWOOD when it registered the Disputed Domain Names.

This Panel finds that there is no reason for the Respondent to have registered the Disputed Domain Names other than to trade off the reputation and goodwill of the Complainant's well-known trademark (see [WIPO Overview 3.0](#), section 3.1.4).

Further, a gap of several years between registration of a complainant's trademark and respondent's registration of a disputed domain name (containing the trademark) can indicate bad faith registration. In this case, the Respondent registered the Disputed Domain Name some 17 years after the Complainant established registered trademark rights in the RIPPLEWOOD mark.

On the issue of use, the Panel notes that the Disputed Domain Name <ripplewoodequity.com> was used to resolve to an online website that purportedly attempts to impersonate the Complainant by displaying the Complainant's trademark and information about the Complainant apparently lifted from publicly available sources including the Complainant's Wikipedia page. Targeting of this nature is a common example of use in bad faith as referred to in paragraph 4(b) of the Policy and identified in many previous UDRP decisions (see [WIPO Overview 3.0](#), sections 3.1.4, and 3.2.1).

Further, the evidence is that the Disputed Domain Name <ripplewood-equity.com> resolved to a webpage bearing the Complainant's trademark and unconnected with any *bona fide* supply of goods or services by the Respondent. Currently, the Disputed Domain Names resolve to inactive websites. Previous UDRP 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. “While 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, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put” (see [WIPO Overview 3.0](#), section 3.3). This Panel notes that the evidence is that all of these factors are present in this proceeding.

In the absence of any evidence to the contrary, this Panel finds that the Respondent has taken the Complainant’s trademark RIPPLEWOOD and incorporated it in the Disputed Domain Names without the Complainant’s consent or authorization, for the purpose of capitalizing on the reputation of the trademark by diverting Internet users for commercial gain.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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, <ripplewood-equity.com> and <ripplewoodequity.com> be transferred to the Complainant.

/Nicholas Weston/

Nicholas Weston

Sole Panelist

Date: October 2, 2023