

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Green Fit1

Case No. D2023-4122

1. The Parties

The Complainant is LPL Financial LLC, United States of America, represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Green Fit1, United Kingdom

2. The Domain Name and Registrar

The disputed domain name <lplfinancing.com> is registered with Hostinger Operations, UAB (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 3, 2023. On October 3, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 4, 2023, 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 (Privacy Protect, LLC (PrivacyProtect.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 4, 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 5, 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 17, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on November 15, 2023.

The Center appointed Anna Carabelli as the sole panelist in this matter on November 21, 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

Founded in 1989 through the merger of two brokerage firms -Linsco and Private Ledger-, the Complainant is an independent broker dealer operating in the retail financial advice market. The Complainant serves independent financial advisors and financial institutions, providing them with the technology, research, clearing and compliance services, and practice management programs they need to create and grow their practices. Since 2010, the Complainant has been publicly traded on the NASDAQ stock exchange. The Complainant has over 4,800 employees, with its primary offices in San Diego, California; Fort Mill, South Carolina; Boston, Massachusetts and Austin, Texas. In the second quarter of 2023, the Complainant's gross profit reached over USD 990 million, with a net income of over USD 286 million.

The Complainant owns multiple trademark registrations for LPL and LPL FINANCIAL throughout the world, including the following:

- U.S. trademark registration No. 1801076, LPL, registered on October 26, 1993;
- European Union ("EU") trademark registration No. 018653022, LPL, registered on May 26, 2022;
- United Kingdom trademark registration No. UK00003753607, LPL, registered on May 13, 2022;
- U.S. trademark registration No. 3662425, for LPL FINANCIAL (and design), registered on August 4, 2009;
- United Kingdom trademark registration No. UK00003753611, LPL FINANCIAL, registered on May 13 2022.

The Complainant is the owner of the domain names <lpl.com>, registered on August 2, 1994, <lpl-financial.com> registered on January 11, 2004, <lpl.net> registered on November 16, 1999, and other domain names. The Complainant actively uses these domain names in connection with the websites to promote its products, services, and engage with clients. In addition, the Complainant's parent company, LPL Holdings, Inc., is the owner of the branded new generic Top-Level Domains ("gTLDs") ".lpl" and ".lplfinancial". The Complainant also has a strong presence on various social-media platforms, with over 19,000 likes on its official Facebook page and over 25,000 followers on Twitter.

The Respondent registered the disputed domain name on July 31, 2023. As per the evidence submitted in the Complaint, the disputed domain name resolves to an active website purporting to offer cryptocurrency and general financial trading services. The Respondent's website bears a logo comprising a square graphic component together with the element "LPL" and the term FINANCE.

5. Parties' Contentions

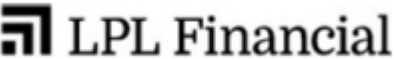

A. Complainant

The Complainant submits and contends that:

- it has established rights in the LPL and LPL FINANCIAL trademarks by virtue of longstanding use and registration in numerous jurisdictions worldwide. The trademarks LPL and LPL FINANCIAL are inherently distinctive and well-known in connection with the Complainant's financial advisory services, as recognized by previous UDRP decisions (see *LPL Financial LLC v. 钱梦聘 (Qianmengdan)*, WIPO Case No. [D2021-0150](#); *LPL Financial LLC v. Rohit Kumar*, WIPO Case No. [D2021-3778](#)).
- the disputed domain name is confusingly similar to the trademarks LPL and LPL FINANCIAL in which the Complainant has rights, since: (i) it incorporates the whole Complainant's trademark LPL and (ii) it is conceptually identical to, and confusingly similar from the visual/phonetic and semantic points of view with the Complainant's trademark LPL FINANCIAL.

- The Respondent has no rights or legitimate interests in the disputed domain name since: (i) the Complainant has not authorized or somehow given consent to the Respondent to register and use the disputed domain name, (ii) the Respondent is not commonly known by the disputed domain name, and (iii) the Respondent's use of the disputed domain name is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. The Respondent's demonstrated purpose and use of the disputed domain name is to confuse the public into believing that the Respondent's website and its alleged trading services are associated with the Complainant in order to benefit from this confusion. In this connection the Complainant points out that the Respondent's website includes the following logo comprising a square graphic component together with the element "LPL" and the term "FINANCE", closely resembling the Complainant's LPL FINANCIAL figurative trademark.

The Respondent's website includes the following logo comprising a square graphic component together with the element "LPL" and the term "FINANCE", closely resembling the Complainant's FINANCIAL figurative trademark:

	
<p>Complainant's trademark</p>	<p>Logo associated with the Respondent's website</p>

and displays the mention "LPL Finance – 2023 © All rights reserved" at the bottom of the homepage.

- The disputed domain name was registered and is being used in bad faith by the Respondent to intentionally create a false affiliation, and likelihood of confusion, with the Complainant and its LPL and LPL FINANCIAL marks, and to disrupt the Complainant's business by using to impersonate the Complainant for commercial gain. The Complainant submits that the Respondent has been using the disputed domain name to promote fictitious business, making unauthorized use of the Complainant's LPL trademark and a variant of the Complainant's LPL FINANCIAL trademark, to induce Internet users to download potential malware, register for an account and make payment as part of a phishing scheme.

Based on the above the Complainant requests the disputed domain name be transferred to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

- (i) the disputed domain name is identical 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; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the LPL and LPL FINANCIAL marks based on the evidence submitted in the Complaint.

The disputed domain name entirely incorporates the Complainant's mark LPL and this is a sufficient element to establish confusing similarity, as held by previous UDRP panels (e.g., *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

The disputed domain name is also confusingly similar to the Complainant's trademark LPL FINANCIAL, from which it differs by the substitution of term "financial" with the visually, phonetically and semantically similar term "financing". In the Panel's view, this variation does not prevent a finding of confusing similarity.

The addition of the Top-Level-Domain ("TLD") ".com", is viewed as a standard registration requirement and as such is generally disregarded under the first element confusing similarity test. (See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition – "the [WIPO Overview 3.0](#)").

In the light of all the above, the Panel finds that the disputed domain name is confusingly similar to the Complainant's trademarks and the Complainant has established element 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainant holds prior rights in the registered and well-known LPL and LPL FINANCE trademarks, (b) the Respondent has not been authorized to use the Complainant's marks in any way and is not commonly known by the disputed domain name, and (c) the Respondent cannot demonstrate any legitimate non-commercial or fair use of the disputed domain name. In this connection, the Complainant has provided evidence that the disputed domain name resolves to a website purporting to offer financial trading services, featuring a variation of the Complainant's LPL FINANCE trademark and displaying the mention "LPL Finance – 2023 © All rights reserved" at the bottom of the home page.

According to section 2.1 of the [WIPO Overview 3.0](#), while 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 often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. By not submitting a response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain name under paragraph 4(c) of the Policy. Moreover, given the confusing similarity of the disputed domain name to the Complainant’s trademarks and the absence of any relationship between the Respondent and the Complainant, the Respondent’s use of the disputed domain name carries a risk of implied affiliation with the Complainant as a provider of financial-advisory services, and cannot constitute neither a *bona fide* use nor a legitimate noncommercial or fair use of the disputed domain name. See [WIPO Overview 3.0](#), section 2.5.1.

The Panel further notes that according to the evidence submitted by the Complainant - which has not been challenged by the Respondent - the disputed domain name is actually or could potentially be, used for phishing activity. Previous Panels have unanimously and consistently held that the use of a domain name for illegal activity, such as phishing, impersonation/passing off or other types of fraud can never confer rights or legitimate interests on a respondent ([WIPO Overview 3.0](#), section 2.13.1).

Therefore, the Panel finds that the Complainant has established 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 establish that the disputed domain name has been registered and used in bad faith.

The Complainant’s LPL and LPL FINANCIAL trademarks are distinctive and well-known and the date of their registration significantly precedes the date of registration of the disputed domain name. In the Panel’s view it is not conceivable that the Respondent would not have actual notice of the Complainant’s marks when registering the disputed domain name. The fact that the website at the disputed domain name features a variation of the Complainant’s LPL FINANCE trademark, indicates that the Respondent targeted the Complainant when registering the disputed domain name.

The Respondent is using the disputed domain name in connection with a website offering services in the same line of business as the Complainant’s and, according to the uncontested evidence submitted with the Complaint, is requesting that customers establish account and deposit money. This suggests a deliberate intent by the Respondent to divert and mislead Internet users into believing that they are dealing with the Complainant.

The above conduct constitutes opportunistic bad faith registration (see section 3.2.1 of the [WIPO Overview 3.0](#)), as well as bad faith use of the disputed domain name under the Policy. Indeed, the Respondent has used the disputed domain names to capitalize on the goodwill of the Complainant’s LPL and LPL FINANCIAL marks, and has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainants’ mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website (see section 3.1.3 of the [WIPO Overview 3.0](#)). Under paragraph 4(b)(iv) of the Policy, the above shall be evidence of the registration and use of a domain name in bad faith.

Based on the above, the Panel finds that the Complainant has established also 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 <lpfinancing.com> be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: December 5, 2023