

ADMINISTRATIVE PANEL DECISION

Prelude Capital Partners, LLC v. Odogwu Ifeadigo
Case No. D2023-4127

1. The Parties

The Complainant is Prelude Capital Partners, LLC, United States of America (“United States”), represented by Haynes and Boone, LLP, United States.

The Respondent is Odogwu Ifeadigo, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <prelude-capital.com> (the “Domain Name”) is registered with Hostinger, 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 4, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 5, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Domain Admin, Privacy Protect, LLC (PrivacyProtect.org)), and contact information in the Complaint. The Center sent an email communication to the Complainant on October 11, 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 13, 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 16, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 16, 2023.

The Center appointed Ian Lowe as the sole panelist in this matter on November 24, 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 global multi-strategy, multi-manager hedge fund adviser established in 2010. It manages allocated funds in excess of USD 5.5 billion across its offices in New York, London and Hong Kong, China in collaboration with more than 120 established hedge funds and individual portfolio managers.

The Complainant is the proprietor of United States trademarks number 4645046 PRELUDE CAPITAL registered on November 25, 2014 and number 6305344 PRELUDE CAPITAL registered on March 30, 2021 (the "Mark").

The Domain Name was registered on September 15, 2023. It does not currently resolve to an active website, but at the time of initial preparation of the Complaint resolved to a website purporting to be operated by a company based in London and providing a cryptocurrency trading platform (the "Respondent Website"). It featured the Mark, including a copy of the stylized logo used by the Complainant on its website (the "Complainant's Logo"):



The website invited users to create an account with the Respondent by entering personal details including email address and the user's cryptocurrency account IDs for both USDT TRC20 and Bitcoin wallets.

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is confusingly similar to its PRELUDE CAPITAL trademark, that the Respondent has no rights or legitimate interests in respect of the Domain Name, and that the Respondent registered and is using the Domain Name in bad faith within the meaning of the Policy.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the 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 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 Domain Name is almost identical to the Mark, save for the addition of a hyphen which may be ignored for the purpose of a comparison between the Mark and the Domain Name. Based on the available evidence, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Accordingly, the Panel finds that the Domain Name is identical or confusingly similar to the Mark and that the first element required under 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 that 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. Accordingly, 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.

The Respondent has not used the Domain Name for a *bona fide* offering of goods or services, but rather for a website purporting to be operated by the Complainant and purporting to offer a cryptocurrency trading platform. In the Panel’s view, the impersonation of a brand owner in this manner cannot confer rights or legitimate interests on the Respondent. See also [WIPO Overview 3.0](#), section 2.13.1.

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 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 Domain Name such as those enumerated in the Policy or otherwise.

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

C. Registered and Used in Bad Faith

In light of the use by the Respondent of the Mark in the Domain Name, and the nature of the Respondent’s Website featuring the Mark and the Complainant’s Logo, and purporting to offer a financial service, the Panel is in no doubt that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name.

The Panel considers that the Respondent has registered and used the Domain Name to deceive Internet users into believing that the Domain Name is operated or authorized by the Complainant, and to attract Internet users by creating a likelihood of confusion with the Mark, no doubt for commercial gain. The Panel further considers that the Respondent’s Website’s impersonating the Complainant cannot amount to fair use of the Domain Name. The Panel further finds on balance that it may be inferred from the circumstances, and from the invitation to users to enter personal information including account IDs, that the Domain Name has been used for phishing purposes. Such activity also constitutes bad faith. The current non-use of the Domain Name does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

It follows that, based on the available evidence and absent any explanation from the Respondent, 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 Domain Name <prelude-capital.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: December 8, 2023