

ADMINISTRATIVE PANEL DECISION

Principal Financial Services, Inc. v. Ahmet Peker, Antalya Web Tasarim
Case No. D2022-0176

1. The Parties

The Complainant is Principal Financial Services, Inc., United States of America (“United States”), represented by Neal & McDevitt, United States.

The Respondent is Ahmet Peker, Antalya Web Tasarim, Turkey.

2. The Domain Name and Registrar

The disputed domain name, <principalfinancial.biz> (the “Domain Name”), is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 19, 2022. On January 20, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 21, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 January 25, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 14, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 16, 2022.

The Center appointed Tony Willoughby as the sole panelist in this matter on February 21, 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 Iowa, United States corporation engaged in the field of financial services. It is the registered proprietor of numerous trade mark registrations of marks comprising or including the word "principal" and a logo in the form of a stylised letter P. For present purposes it is only necessary to mention two of those registrations, namely:

United States Registration No. 1,562,541 PRINCIPAL (word) registered on October 24, 1989 for financial analysis and consulting, management of securities and securities brokerage services;

United States Registration No. 5,083,536 P PRINCIPAL (in stylised form) registered on November 15, 2016 for annuity underwriting services and a wide variety of other financial services.

The Domain Name was registered on September 30, 2020 and until suspended by the Registrar following the filing of an IP infringement report by the Complainant's counsel on December 30, 2021 was connected to a website purporting to be a website of the Complainant. The website featured the Complainant's PRINCIPAL and P trade marks and photographs of the Complainant's headquarters building accompanied by text inviting the visitor to engage with the Complainant. One example reads "Ensuring your things go as planned, Principal Financial Login enables you to access the tools and information you need. Principal Financial is a trusted and admired brand, and its efforts to make things easy for its consumers are accepted by everyone. If it's time for you to plan for ...".

5. Parties' Contentions

A. Complainant

The Complainant contends that the Domain Name is identical or confusingly similar to the Complainant's PRINCIPAL registered trade mark; that the Respondent has no rights or legitimate interest in respect of the Domain Name; and that the Domain Name has been registered and is being used in bad faith.

The essence of the Complainant's case is that the Respondent registered the Domain Name for the purpose for which he was using it, namely to represent falsely to visitors to his website that his website was a website of the Complainant and with a view to engaging with the Respondent in the mistaken belief that they were dealing with the Complainant. The Complainant asserts that the Login feature on the website would likely encourage the visitor to divulge confidential information.

B. Respondent

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

6. Discussion and Findings

A. General

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name, the

Complainant must prove each of the following, namely that:

- (i) the Domain Name is identical or confusingly similar to a trade mark 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.

B. Identical or Confusingly Similar

The Domain Name comprises the word “principal”, which is also the Complainant’s PRINCIPAL trade mark, followed by the word “financial” and the “.biz” generic Top Level Domain.

Section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition explains the test for identity or confusing similarity under the first element of the Policy and includes the following passage:

“While each case is judged on its own merits, in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing.”

Here, the Complainant’s PRINCIPAL registered trade mark is readily recognizable in the Domain Name. While a respondent’s intent is generally irrelevant to the analysis under this element of the Policy, the fact that “principal” is followed by “financial”, thereby replicating the bulk of the Complainant’s corporate name, confirms the Panel in its view that the Respondent’s intent, as evidenced by the website to which the Domain Name was connected (see section 4 above), has been to impersonate the Complainant. This finding will be of relevance to the issues to be decided under the second and third elements of the Policy.

The Panel finds that the Domain Name is confusingly similar to a trade mark in which the Complainant has rights.

C. Rights or Legitimate Interests

The nature of the Domain Name combined with the nature of the website to which it was connected makes it abundantly clear that the Respondent’s objective has been to impersonate the Complainant for commercial gain, whether it be to defraud visitors to the Respondent’s website by inducing them to part with their money or to disclose personal confidential information in the erroneous belief that they are engaging with the Complainant.

On no basis can such an activity give rise to rights or legitimate interests in respect of the Domain Name in the hands of the Respondent. The Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name.

D. Registered and Used in Bad Faith

By the same reasoning the Panel finds that the Domain Name has been registered and is being used in bad faith within the meaning of paragraph 4(b)(iv) of the Policy. The fact that the suspension of the Domain Name by the Registrar has brought the offending use to an end is of no assistance to the Respondent. If the Registrar were to lift that suspension for any reason, the threat to the Complainant would revive. While the Domain Name remains in the hands of the Respondent, it constitutes a threat hanging over the head of the Complainant and, as such, a continuing use of the Domain Name in bad faith.

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, <principalfinancial.biz>, be transferred to the Complainant.

/Tony Willoughby/

Tony Willoughby

Sole Panelist

Date: February 24, 2022