

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Contact Privacy Inc. Customer 7151571251 / Shawn Chapman
Case No. D2022-2089

1. The Parties

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

Respondent is Contact Privacy Inc. Customer 7151571251, Canada / Shawn Chapman, U.S.

2. The Domain Name and Registrar

The disputed domain name <lplfinancials.info> (the “Domain Name”) is registered with Google Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 9, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. Also on June 9, 2022, 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 and contact information in the Complaint.

The Center sent an email to Complainant on June 10, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on June 14, 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 Respondent of the Complaint, and the proceedings commenced on June 15, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 5, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on July 6, 2022.

The Center appointed Robert A. Badgley as the sole panelist in this matter on July 12, 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

According to Complainant:

“The Complainant, LPL Financial LLC, was founded in 1989 through the merger of two brokerage firms – Linsco and Private Ledger. LPL is a leader in the retail financial advice market, and is considered the largest independent broker-dealer in the United States. 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. LPL enables them to provide objective guidance to millions of families throughout the United States seeking wealth management, retirement planning, financial planning and asset management solutions.”

“Since 2010, LPL has been publicly traded on the NASDAQ under ‘LPLA’. As of 30 June 2021, LPL provides an integrated platform of brokerage and investment advisory services to more than 19,100 financial professionals and approximately 800 financial institutions, managing over USD 1.1 trillion in advisory and brokerage assets. 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 first quarter of 2022, LPL’s net revenue reached over USD 2 billion, with a gross profit of over USD 668 million. The Complainant has acquired considerable goodwill and reputation in the LPL brand in the context of the financial-services sector.”

Complainant holds various trademark registrations in various jurisdictions, including: (1) United States Patent and Trademark Office (“USPTO”) Reg. No. 1,801,076 for the word mark LPL, registered on October 26, 1993 in connection with “financial management services” in International Class 36, with a 1992 date of first use in commerce; and (2) USPTO Reg. No. 3,662,425 for the semi-figurative mark LPL FINANCIAL, registered on August 4, 2009 in connection with, among other things, “financial advice and financial management services” in Class 36 and “technology services” in Class 42, with a 2008 date of first use in commerce.

Complainant’s main website is located at the domain name <lpl.com>, a domain name which Complainant has owned since 1994. Complainant also maintains a social media presence.

Complainant asserts that its LPL and LPL FINANCIAL marks are “well known internationally.” Respondent does not dispute this.

The Domain Name was registered on April 18, 2022. The Domain Name does not resolve to an active website.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant’s contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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

The Panel concludes that Complainant has rights in the trademarks LPL and LPL FINANCIAL through registration and use demonstrated in the record. The Panel also concludes that the Domain Name is confusingly similar to those marks. The dominant element of the mark – LPL – is entirely reproduced in the Domain Name, and is clearly recognizable within the Domain Name. The additional word “financial” or the added “s” do not prevent a finding of confusing similarity between the Domain Name and the LPL or LPL FINANCIAL mark.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are 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 Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name. Respondent has not come forward in this proceeding to dispute the allegations and evidence put forth by Complainant, or to assert and prove any *bona fides* Respondent might have *vis-à-vis* the Domain Name. It is undisputed that Complainant has given Respondent no license or authority to use its LPL or LPL FINANCIAL marks in a domain name or any other manner. It is also plausibly alleged, and not disputed, that Complainant’s LPL and LPL FINANCIAL marks are well known.

The Panel concludes that Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation,” are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a

competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or

- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section.

Complainant's marks LPL and LPL FINANCIAL are inherently distinctive (arbitrary), and it is plausibly alleged (and supported by the number of Complainant's customers and its annual revenues) that these marks are well known. As such, and absent any explanation from Respondent, the Panel finds it more likely than not that Respondent had these marks in mind when registering the Domain Name.

The Panel also finds bad faith use of the Domain Name under the "passive holding" doctrine first set out in *Telstra Corp. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) ("Telstra"). Complainant's marks are sufficiently well known to allow the inference, as in *Telstra*, that there appears to be no conceivable good faith basis upon which Respondent could have registered and used the Domain Name.

Complainant has established Policy paragraph 4(a)(iii).

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 <lplfinancials.info> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: August 2, 2022