

ADMINISTRATIVE PANEL DECISION

Phoenix Life Limited v. wan qi tong jian
Case No. D2022-2966

1. The Parties

The Complainant is Phoenix Life Limited, United Kingdom (“UK”), represented by Pinsent Masons LLP, UK.

The Respondent is wan qi tong jian, China.

2. The Domain Name and Registrar

The disputed domain name <fphoenix.com> (the “Domain Name”) is registered with OregonURLs.com LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 11, 2022. On August 11, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 15, 2022, the Registrar transmitted by email to the Center its verification response.

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 August 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 6, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 11, 2022.

The Center appointed Mathias Lilleengen as the sole panelist in this matter on September 16, 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 to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a subsidiary of Phoenix Group Holdings Plc; the UK's largest long-term savings and retirement business. The "Phoenix" brand was initially founded as Phoenix Assurance, which has been trading since 1786. As of 2021, the Complainant has circa GBP 310 billion total assets under administration, with circa 13 million customers.

The Complainant owns a global portfolio of registered trademark rights that pre-date the registration of the Domain Name, including, but not limited to the UK trademark PHOENIX No. UK00001306768, registered on October 5, 1990 and UK trademark PHOENIX No. UK00001564248, registered on January 22, 1999. The Complainant has online presence, both through its websites and social media.

The Domain Name was registered on January 9, 2022. The Domain Name has resolved to a website containing pornographic content.

5. Parties' Contentions

A. Complainant

The Complainant documents registered trademark rights and argues that the Domain Name is identical and/or confusingly similar to the Complainant's trademark, because the Domain Name wholly incorporates the Complainant's trademark with adding the letter "f". The addition does not alter the verbal identity between the trademark and the Domain Name.

The Complainant argues that there is no evidence to support that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights or legitimate interests in the Domain Name, as the Respondent has not made any use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering of goods or services. The Domain Name has resolved to a website containing pornographic content.

The Complainant submits that the Complainant's trademark is famous, and the Respondent must have been aware of the Complainant's trademark when the Respondent registered the Domain Name. Furthermore, the combination of the Complainant's trademark with the misspelling inclusion of the letter "f" will cause a false association between the Domain Name and the Complainant's trademark. The Respondent's use of the Domain Name to resolve to a website containing pornographic content, is further evidence of bad faith. Finally, the Respondent has registered over 430 domain names, and it may in itself indicate that the Domain Name has been registered in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has established rights in its trademark PHOENIX. The test for confusing similarity involves a comparison between the trademark and the Domain Name. The Domain Name incorporates the Complainant's trademark with "f" added in front. This addition does not prevent a finding of confusing similarity.

For the purposes of assessing confusing similarity under paragraph 4(a)(i) of the Policy, it is permissible for the Panel to ignore the generic Top-Level Domain (“gTLD”) as it is viewed as a standard registration requirement, see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) section 1.11.

The Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Respondent is not affiliated with nor authorized by the Complainant. There is no evidence that the Respondent is commonly known by the Domain Name. The Respondent cannot establish rights in the Domain Name, as it has not made use of, or demonstrable preparations to use, the Domain Name in connection with a *bona fide* offering. On the contrary, the use suggests bad faith.

The Panel finds that the Complainant has made out a *prima facie* case showing that the Respondent has no rights or legitimate interests in the Domain Name, which has been unrebutted by the Respondent.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Complainant’s trademarks were registered before the registration of the Domain Name. The composition of the Domain Name indicates that the Respondent was aware of the Complainant’s trademark when the Respondent registered the Domain Name.

The Domain Name seems to be registered to attract Internet users by misleading them into believing that the Domain Name is somehow connected to the Complainant. The Respondent has not provided any evidence of good faith use, and the Respondent’s use of the website containing pornographic content, is under the circumstances further evidence of bad faith.

The Panel finds that the Domain Name was registered and is being used in bad faith, within the meaning of the 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 Domain Name <fphoenix.com> be transferred to the Complainant.

/Mathias Lilleengen/

Mathias Lilleengen

Sole Panelist

Date: September 30, 2022