

ADMINISTRATIVE PANEL DECISION

Polychain Capital LP v. Just Just
Case No. D2023-0828

1. The Parties

Complainant is Polychain Capital LP, United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

Respondent is Just Just, United States.

2. The Domain Name and Registrar

The disputed domain name <polychain-capital.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 23, 2023. On February 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 24, 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 service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to Complainant on February 27, 2023 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 March 2, 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 Respondent of the Complaint, and the proceedings commenced on March 10, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 30, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on April 3, 2023.

The Center appointed Jeffrey D. Steinhardt as sole panelist in this matter on April 14, 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

Complainant is one of the world's largest and oldest cryptocurrency fund managers. Complainant owns several trademark registrations for its POLYCHAIN mark in various countries, including: United States Trademark Registration No. 87642759, registered July 10, 2018 in International Class 36, with a first use in commerce date of August 25, 2016; and International Trademark Registration No. 1408466, registered April 9, 2018 for dozens of countries and the European Union in Class 36.

The disputed domain name was registered November 26, 2022. The disputed domain name does not currently route to an active webpage.

5. Parties' Contentions

A. Complainant

Complainant avers that the disputed domain name routes to a webpage unrelated to Complainant's actual business, and that Respondent is intent on using the POLYCHAIN mark for a phishing scheme. Complainant avers that Respondent's "imposter" website makes misrepresentations, promotes fraudulent investments and falsely offers employment opportunities with Complainant.¹

Summarizing its legal contentions, Complainant alleges that (1) the disputed domain name is identical or confusingly similar to Complainant's trademarks, (2) Respondent has no rights or legitimate interests in the disputed domain name, and (3) the disputed domain name was registered and is being used in bad faith, all in violation of the Policy. On this basis, Complainant seeks transfer of the disputed domain name.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

The Rules require the Panel to decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable. Rules, paragraph 15(a). Complainant must establish each element of paragraph 4(a) of the Policy, namely:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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.

¹ The Complaint annexes screenshots of the webpages as they allegedly appeared on December 15, 2022.

Complainant must establish these elements even if Respondent does not submit a response. See, e.g., *The Vanguard Group, Inc. v. Lorna Kang*, WIPO Case No. [D2002-1064](#); WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.3. In the absence of a Response, the Panel may also accept as true the reasonable factual allegations in the Complaint. See, e.g., *ThyssenKrupp USA, Inc. v. Richard Giardini*, WIPO Case No. [D2001-1425](#) (citing *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#)).

A. Identical or Confusingly Similar

The Panel agrees with Complainant’s allegation that the disputed domain name is confusingly similar to Complainant’s POLYCHAIN mark.

UDRP panels commonly disregard Top-Level Domains (“TLDs”) in determining whether a disputed domain name is identical or similar to a complainant’s marks. [WIPO Overview 3.0](#), section 1.11.1.

Omitting the “.com” TLD from the disputed domain name, the Panel notes that Complainant’s entire POLYCHAIN mark is included in the disputed domain name, adding only a hyphen and the term “capital”. The Panel finds that these additions to Complainant’s mark does not prevent a finding of confusing similarity. See *id.*, section 1.7 (where a domain name incorporates the entirety of a trademark, the domain name will normally be considered by UDRP panels to be confusingly similar).

The Panel therefore concludes that the first element of paragraph 4(a) of the Policy is satisfied.

B. Rights or Legitimate Interests

The Panel also concludes that Respondent has no rights or legitimate interests in the disputed domain name.

The Policy contains a non-exhaustive list of circumstances that may demonstrate when a respondent has rights or legitimate interests in a domain name. The list includes: (1) using the domain name in connection with a *bona fide* offering of goods and services; (2) being commonly known by the domain name; or (3) making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers. Policy paragraphs 4(c)(i) – (iii).

A complainant must show a *prima facie* case that a respondent lacks rights or legitimate interests in a disputed domain name, after which the burden of rebuttal passes to the respondent. See, e.g., *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#). The absence of rights or legitimate interests is established if a complainant makes out a *prima facie* case and the respondent enters no response. *Id.*, (citing *De Agostini S.p.A. v. Marco Cialone*, WIPO Case No. [DTV2002-0005](#)).

The Panel accepts the Complaint’s undisputed allegations that Respondent has no relevant trademark rights and has no authorization or license to use Complainant’s trademark in the disputed domain name. The Panel also accepts the Complaint’s averment that Respondent is not commonly known by the disputed domain name.

Complainant has submitted credible evidence that the disputed domain name has at times routed users to webpages that create the misleading impression that it is Complainant’s official website. At other times, the disputed domain name has routed to an inactive webpage.

The Panel finds that Respondent lacks rights or legitimate interests in the disputed domain name, since Respondent’s use of the disputed domain name falsely suggests that Respondent is affiliated with Complainant, the trademark owner. [WIPO Overview 3.0](#), section 2.5 (a respondent’s use of a domain name will not be considered “fair” if it falsely suggests affiliation with the trademark owner).

In light of the evidence and allegations of the Complaint, the Panel finds that Respondent is not making a legitimate noncommercial or fair use of the disputed domain name and that Complainant establishes a *prima facie* case. Omitting to submit a response, Respondent has neither contested nor rebutted that *prima facie* case.

The Panel finds, therefore, that Respondent has no rights or legitimate interests in the disputed domain name and that the second element of the Policy paragraph 4(a) is established.

C. Registered and Used in Bad Faith

The Panel finds that the third element of paragraph 4(a) of the Policy, bad faith registration and bad faith use, is also established.

Using a domain name to intentionally attract Internet users, for commercial gain, by creating a likelihood of confusion, may be evidence of bad faith. Policy, paragraph 4(b)(iv). See, e.g., *L'Oréal, Biotherm, Lancôme Parfums et Beauté & Cie v. Unasi, Inc*, WIPO Case No. [D2005-0623](#).

The record shows that Respondent registered the disputed domain name after Complainant had long perfected its trademark rights. The terms used to make up the disputed domain name and its use to direct users to a website designed to falsely represent Complainant's online operations make obvious that Respondent knew the nature of Complainant's business associated with its trademarks.

The Panel finds that Respondent deliberately attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with Complainant's marks. This is evidence of bad faith registration and bad faith use. Policy paragraph 4(b)(iv).

The Complaint also contains evidence that the disputed domain name is linked to active MX records. From this, the Panel infers that Respondent has used or intends to use the confusingly similar disputed domain name for email communications to disrupt Complainant's business. This also supports a finding of bad faith under Policy paragraph 4(b)(iii).

Respondent's failure to submit a response to the Complaint and the failure to provide accurate contact details as required by Respondent's agreement with the registrar are cumulative evidence of use in bad faith.² [WIPO Overview 3.0](#), Section 3.3; *Telstra Corp. Ltd. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).

The Panel holds therefore that Respondent registered and used the disputed domain name in bad faith, thus, establishing the third element under Paragraph 4(a) 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 <polychain-capital.com> be transferred to Complainant.

/Jeffrey D. Steinhardt/

Jeffrey D. Steinhardt

Sole Panelist

Date: April 28, 2023

² The registrant contact details contain a non-existent address and a fictitious phone number. Notification of the Complaint to Respondent by courier was not possible using the registrant address details provided by Respondent, however there is no indication that email notification was not completed.