

ADMINISTRATIVE PANEL DECISION

Phoenix Life Limited v. bill powers

Case No. D2023-1699

1. The Parties

The Complainant is Phoenix Life Limited, United Kingdom, represented by Pinsent Masons LLP, United Kingdom.

The Respondent is bill powers, United States of America.

2. The Domain Name and Registrar

The disputed domain name <phoenixgroupholdingsplc.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 18, 2023. On April 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 18, 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 (Contact Privacy Inc Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 19, 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 April 21, 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 April 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 18, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 25, 2023.

The Center appointed Nayiri Boghossian as the sole panelist in this matter on June 2, 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 operates in the field of savings and retirement. The Complainant owns a number of registrations for the trademark PHOENIX and PHOENIX GROUP.

The disputed domain name was registered on January 26, 2023, and resolves to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark PHOENIX. The disputed domain name contains the Complainant's trademark PHOENIX and PHOENIX GROUP. The addition of the word "holdings" and the letters "plc" would not be considered in assessing a trademark. The suffixes such as ".com" are generally disregarded but this is similar to the use made by the Complainant.

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name. The disputed domain name is not being used in connection with a *bona fide* offering of goods or services. The disputed domain name resolves to an inactive webpage. Also, there is no disclosure that no relationship exists between the Complainant and the Respondent. The Respondent registered the disputed domain name in order to take advantage of the Complainant's goodwill and reputation. There is no connection between the Complainant and the Respondent and there is no evidence that the Respondent is commonly known by the disputed domain name. The Respondent is not authorized by the Complainant to use its trademark.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. The Complainant's trademark enjoyed 20 years of worldwide reputation before the disputed domain name was created. The Respondent must have been aware of the Complainant's trademark and registered the disputed domain name in order to create an impression of affiliation with the Complainant. The Respondent has used a privacy shield.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant owns trademark registrations for the trademark PHOENIX and PHOENIX GROUP. The Panel is satisfied that the Complainant has established its ownership of the trademark PHOENIX and PHOENIX GROUP. The disputed domain name comprises the Complainant's trademark PHOENIX in its entirety. It can be said that it also comprises the Complainant's trademark PHOENIX GROUP in its entirety. The terms "holding" and "plc" do not prevent a finding of confusing similarity either.

The generic Top Level Domain ("gTLD"), ".com" should generally be ignored when assessing confusing similarity as established by prior UDRP decisions.

Consequently, the Panel finds that the disputed domain name is confusingly similar to the trademark of the Complainant and that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

A complainant must make at least a *prima facie* showing that a respondent does not have any rights or legitimate interests in the disputed domain name. Once such showing is made, the burden of production shifts to the respondent. In the instant case, the Complainant asserts *inter alia* that the Respondent is not authorized by the Complainant to use its trademark. Therefore, the Complainant has established a *prima facie* case and the burden of production shifts to the Respondent to show that it has rights or legitimate interests.

The absence of a response by the Respondent allows the Panel to draw inferences, and under the circumstances, the absence of a response leaves the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name unrebutted.

Consequently, the Panel finds that the Complainant has met the requirement under the Policy of showing that the Respondent does not have any rights or legitimate interests in the disputed domain name. Accordingly, the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered or Used in Bad Faith

The Respondent must have been aware of the Complainant's trademark as the Complainant's trademark has been registered years before the disputed domain name was created. The disputed domain name consists of the Complainant's trademark together with the terms "holdings" and "llc". The disputed domain name resolves to an inactive website. Prior UDRP panels have found that passive holding does not prevent a finding of bad faith if the totality of circumstances supports an inference of bad faith. See section 3.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"). Noting the Respondent's failure to provide any good-faith explanation for his registration and use of the inherently misleading disputed domain name and the absence of a plausible use of the disputed domain name that would be legitimate (*Johnson & Johnson v. Daniel Wistbacka*, WIPO Case No. [D2017-0709](#)), the Panel finds that the current passive holding of the disputed domain name does not prevent the Panel's bad faith finding.

Accordingly, the Panel finds that the Complainant has satisfied 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 disputed domain name, <phoenixgroup Holdings plc.com>, be transferred to the Complainant.

/Nayiri Boghossian/

Nayiri Boghossian

Sole Panelist

Date: June 14, 2023