

## **ADMINISTRATIVE PANEL DECISION**

**Robeco Holding B.V. v. Maggie Ginsburg**  
**Case No. D2023-1791**

### **1. The Parties**

The Complainant is Robeco Holding B.V., Netherlands, represented by NLO Shieldmark B. V., Netherlands.

The Respondent is Maggie Ginsburg, United States of America.

### **2. The Domain Name and Registrar**

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 21, 2023. On April 21, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 24, 2023, 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 (PrivacyGuardian.org llc) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 25, 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 28, 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 May 2, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 22, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 23, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on May 26, 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 is a Dutch international asset manager which since at least 1988 has offered its investment management services under the trademark “ROBECO” (the “ROBECO Mark”). The Complainant promotes its products through various means including from its website at “www.robeco.com” (“Complainant’s Website”).

The Complainant has held a trademark registration for the ROBECO Mark in various jurisdictions since 1987, notably having held a United States of America trademark registration for the ROBECO Mark since June 18, 1991 for “investing the funds of others” (registration No. 1648318).

The Domain Name was registered on February 4, 2023. The Domain Name resolves to a website (the “Respondent’s Website”) that prominently reproduces the ROBECO Mark and purports to offer asset management and investment management services in direct competition with the Complainant.

#### 5. Parties’ Contentions

##### A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

Notably, the Complainant contends that:

- a) It is the owner of the ROBECO Mark, having registered the ROBECO Mark in various jurisdictions including the United States of America. The Domain Name is confusingly similar to the ROBECO Mark as it reproduces the ROBECO Mark in its entirety and adds the term “firm”.
- b) There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the ROBECO Mark. The Respondent is not commonly known by the ROBECO Mark, nor does it use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Rather the Respondent is using the Domain Name to pass off as the Complainant for commercial gain by purporting to offer investment services in direct competition with the Complainant. Such use is not a legitimate use of the Domain Name.
- c) The Domain Name was registered and is being used in bad faith. The Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent’s Website to disrupt the Complainant’s business and divert Internet users searching for the Complainant to a competing website for commercial gain. Such conduct amounts to registration and use of the Domain Name in bad faith.

##### B. Respondent

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

#### 6. Discussion and Findings

##### A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the complainant’s trademark and the domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the entirety of the mark is reproduced within the Domain Name. Accordingly, the Domain Name is identical or confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms, here (firm), may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

## **B. Rights or Legitimate Interests**

Paragraph 4(c) of the Policy provides a list of circumstances in which the respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name.

The Panel considers that the record of this case reflects that:

- before any notice to the Respondent of the dispute, the Respondent did not use, nor has it made 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. Paragraph 4(c)(i) of the Policy, and [WIPO Overview 3.0](#), section 2.2.
- the Respondent (as an individual, business, or other organization) has not been commonly known by the Domain Name. Paragraph 4(c)(ii) of the Policy, and [WIPO Overview 3.0](#), section 2.3.
- the Respondent is not 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. Paragraph 4(c)(iii) of the Policy, and [WIPO Overview 3.0](#), section 2.4.
- the record contains no other factors demonstrating rights or legitimate interests of the Respondent in the Domain Name.

The Respondent’s use of the Domain Name to resolve to a webpage reproducing the Complainant’s ROBECO Mark and purported to offer investment and asset management services in direct competition with the Complainant does not amount to use for a *bona fide* offering of goods and services. Rather, it appears that the purpose behind the Respondent’s Website is to encourage visitors, under the impression that they are dealing with the Complainant, to invest with the Respondent, such conduct not being *bona fide*.

Based on the available record, the Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular but without limitation, that if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel considers that the record of this case reflects that:

The Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location. Paragraph 4(b)(iv) of the Policy, and [WIPO Overview 3.0](#), section 3.1.4.

The Panel finds that the Respondent must have been aware of the Complainant and its reputation in the ROBECO Mark at the time the Respondent registered the Domain Name. The Respondent has provided no explanation, and neither it is immediately obvious, why an entity would register a domain name incorporating the ROBECO Mark (with the addition of the term "firm") and redirect it to a website purportedly offering investment services unless there was an awareness of and an intention to create a likelihood of confusion with the Complainant and its ROBECO Mark.

The Respondent's Website purports to offer investment services in direct competition with the Complainant. Noting the coined nature of the ROBECO Mark and the absence of any explanation for the Registration, the Panel considers that the most likely explanation is that the Respondent is using the Domain Name to intentionally attempt to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the ROBECO Mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's Website.

Based on the available record, the Panel finds the third element of the Policy has been established.

### **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 <robecofirm.com> be transferred to the Complainant.

*/Nicholas Smith/*

**Nicholas Smith**

Sole Panelist

Date: June 9, 2023