

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. LPL LPL NGUYEN THANH HUNG, lplfinancialltd
lplfinancialltd NGUYEN THANH HUNG, lplsvip lplsvip, lplsvip, lpl lpl
Case No. D2023-1943

1. The Parties

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

Respondents are LPL LPL NGUYEN THANH HUNG, Seychelles, lplfinancialltd lplfinancialltd NGUYEN THANH HUNG, Hong Kong, China, lplsvip lplsvip, lplsvip, Hong Kong, China, and lpl lpl, United States.

2. The Domain Names and Registrars

The disputed domain names <lplfinancialltd.com>, <lplmarket.com>, and <lplmarkets.com> (the “Domain Names”) are registered with NameCheap, Inc. (the “Registrar”).

The disputed domain name <lplmarketsvip.com> (the “Domain Name”) is registered with Gname.com Pte. Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 28, 2023. On May 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On May 1, 2023, the Registrar transmitted by email to the Center its verification response confirming that Respondents are listed as the registrant and providing the contact details.

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 Respondent of the Complaint, and the proceedings commenced on May 5, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 25, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 26, 2023.

On May 26, 2023, the Center received Complainant's request to add the Domain Name <lplmarkets.com> to the current proceeding. On June 1, 2023, the Center received Complainant's request to add the Domain Name <lplmarketsvip.com> to the current proceeding ("the Additional Domain Names").

The Center appointed Marina Perraki as the sole panelist in this matter on June 28, 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.

On June 29, 2023, the Center at the Panel's instruction transmitted by email a request for registrar verification in connection with the Additional Domain Names to each of the Registrars. On June 29, 2023 and June 30, 2023, respectively, each Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Additional Domain Names.

On July 7, 2023, the Center issued at the Panel's instruction the Procedural Order No. 1 to the Parties, requesting Complainant to further amend its Complaint regarding the consolidation of the Additional Domain Names and inviting Respondents to comment on Complainant's submissions. The Parties did not submit any comment.

4. Procedural Issues:

A. Addition of Domain Names

According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.12.2, "Requests for addition of domain names to a complaint after it has been notified to the respondent and the proceedings have formally commenced would be addressed by the panel on appointment".

On May 26, 2023, and June 1, 2023, respectively, Complainant submitted by email its request to add the Additional Domain Names to the proceeding.

Per the Registrars' verification responses regarding the Additional Domain Names, it was confirmed that the denoted Registrant of the Domain Name <lplmarkets.com> is "lplsvip lplsvip, lplsvip" and that both Additional Domain Names share the same Registrant email address. The Domain Name <lplmarkets.com> was registered on the date on which the Center notified Respondent with the present UDRP proceeding. The Domain Name <lplmarketsvip.com> was registered two days after the submission of the first Amended UDRP Complaint by Complainant.

In view of the above, the Panel finds that the proposed Additional Domain Names are *prima facie* registered by the same or related Respondent and it would be practical and efficient to address them in the present proceeding.

Therefore, the Panel accepts Complainant's request to add the Additional Domain Names to the proceeding and will address the Domain Names all together in this Decision.

B. Consolidation of Respondents

The Panel has considered the possible consolidation of the Complaint for the Domain Names at issue. According to [WIPO Overview 3.0](#), section 4.11.2, "Where a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario".

The Panel notes the following features of the Domain Names and arguments submitted by Complainant in favor of the consolidation:

- the Domain Names <lplmarket.com>, <lplmarkets.com> and <lplmarketsvip.com> were used by Respondent in the furtherance of the same phishing scheme and used to resolve to the same website;
- the Domain Names <lplmarket.com> and <lplfinancialltd.com> both list the Registrant Organization as "NGUYEN THANH HUNG";
- all Domain Names target Complainant and include Complainant's LPL trademark;
- all Domain Names apart from <lplmarketsvip.com> were registered with the same registrar;
- all Domain Names apart from <lplmarketsvip.com> are on the same name servers (dns1.registrar-servers.com, dns2.registrar-servers.com);
- all Domain Names apart from <lplmarketsvip.com> are associated with the same IP address (34.233.14.55);
- the Domain Names <lplmarkets.com> and <lplmarketsvip.com> share the same Registrant email address; and
- all Domain Names are currently inactive.

Considering all the above, the Panel also notes that the contact details including the postal addresses for Respondents are apparently fake, and thus finds that, as Complainant has argued, there appears *prima facie* to be one single Respondent, providing possibly fake contact details, or at least both Respondents are under the common control. Furthermore, named Respondents did not submit any arguments to rebut this inference.

The Panel finds that consolidation is fair to Parties, and all nominal Respondents have been given an opportunity to object to consolidation through the submission of pleadings to the Complaint but have chosen not to respond (see [WIPO Overview 3.0](#), section 4.11.2; *Virgin Enterprises Limited v. LINYANXIAO aka lin yanxiao*, WIPO Case No. [D2016-2302](#)). Based on the file, the Panel finds that it is more likely than not that the Domain Names are in common control of one entity, and hence the Panel grants the consolidation (and will refer to these Respondents as "Respondent").

5. Factual Background

Complainant, LPL Financial LLC, was founded in 1989 and is a leader in the retail financial advice market, considered, per Complainant, the largest independent broker-dealer in the United States. Since 2010, Complainant has been publicly traded on the NASDAQ. Today, LPL provides an integrated platform of brokerage and investment advisory services to more than 21,000 users, nationwide managing over USD 1.1 trillion in advisory and brokerage assets. The Complainant has over 4,800 employees. In the first quarter of 2023, LPL's gross profit reached over USD 1,020 million, with a net income of over USD 339 million. Complainant's official Facebook page has over 19,000 likes and Complainant has nearly 25,000 followers on Twitter.

Complainant owns many domain names consisting of or containing "LPL", including <lpl.com>, registered in 1994, from which it operates its main corporate website, as well as <lpl-financial.com>. In addition, Complainant's parent Company, LPL Holdings, Inc., owns the generic Top-Level Domains ("gTLDs") ".lpl" and ".lplfinancial".

Complainant owns trademark registrations for LPL including:

- United States Trademark Registration No. 1801076, LPL, registered on October 26, 1993;

- European Union Trade Mark Registration No. 018653022, LPL, registered on May 26, 2022; and
- United States Trademark Registration No. 3662425, LPL FINANCIAL (figurative), registered on August 4, 2009.

The Domain Name <lplfinancialtd.com> was registered on February 26, 2023. The Domain Name <lplmarket.com> was registered on March 1, 2023. The Domain Name <lplmarkets.com> was registered on May 5, 2023. The Domain Name <lplmarketsvip.com> was registered on May 28, 2023.

The Domain Names <lplmarket.com>, <lplmarkets.com> and <lplmarketsvip.com>, namely all Domain Names apart from <lplfinancialtd.com> previously resolved to a website in Japanese, with the possibility of choosing English, that impersonated Complainant. Respondent's website was titled "LPL Financial Ltd" and displayed Complainant's LPL logo, used by Complainant on its official website at "www.lpl.com". Respondent's website purported to offer various trading services in foreign exchange, precious metal, crude oil and cryptocurrency and invited Internet users to "Download LPL Trading" and register for an account by providing their email address.

6. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for a cancellation of the Domain Names.

B. Respondent

Respondent did not reply to Complainant's contentions.

7. Discussion and Findings

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

- (i) the Domain Names are 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 Names; and
- (iii) the Domain Names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Domain Names incorporate Complainant's LPL trademark in its entirety. This is sufficient to establish confusing similarity (*Magnum Piering, Inc. v. The Mudjackers and Garwood S. Wilson, Sr.*, WIPO Case No. [D2000-1525](#)).

The additional words "market", "markets", "vip" and "ltd", as the case may be, do not avoid a finding of confusing similarity ([WIPO Overview 3.0](#), section 1.8).

The Panel also notes the content of the websites to which the Domain Names <lplmarket.com>, <lplmarkets.com> and <lplmarketsvip.com> lead, which at some point reproduced Complainant's trademark and logo ([WIPO Overview 3.0](#), section 1.15).

The generic Top-Level Domain (“gTLD”) “.com” is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *Hay & Robertson International Licensing AG v. C. J. Lovik*, WIPO Case No. [D2002-0122](#)).

The Panel finds that the Domain Names are confusingly similar to Complainant’s trademark.

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 Names, among other circumstances, by showing any of the following elements:

- (i) before any notice to Respondent of the dispute, Respondent’s use of, or demonstrable preparations to use, the Domain Names or a name corresponding to the Domain Names in connection with a *bona fide* offering of goods or services; or
- (ii) Respondent (as an individual, business, or other organization) has been commonly known by the Domain Names, even if Respondent has acquired no trademark or service mark rights; or
- (iii) Respondent is making a legitimate noncommercial or fair use of the Domain Names, 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 Names.

Respondent has not submitted any response and has not claimed any such rights or legitimate interests with respect to the Domain Names. As per Complainant, Respondent was not authorized to register the Domain Names.

Respondent has not demonstrated any preparations to use, or has not used the Domain Names or a trademark corresponding to the Domain Names in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrated, the Domain Names <lplmarket.com>, <lplmarkets.com> and <lplmarketsvip.com>, were used to host websites to impersonate Complainant and attempt to mislead consumers into thinking that the services purportedly offered for sale on the websites originated from Complainant. Such use demonstrates neither a *bona fide* offering of goods nor a legitimate interest of Respondent (*Arkema France v. Aaron Blaine*, WIPO Case No. [D2015-0502](#)).

The Domain Names all falsely suggested that the websites were official sites of Complainant or of an entity affiliated to or endorsed by Complainant. The websites extensively reproduced, without authorization by Complainant, Complainant’s trademarks and product photos without any disclaimer of association (or lack thereof) with Complainant.

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Names.

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 Names in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Names primarily for the purpose of selling, renting, or otherwise transferring the Domain Names registration to Complainant who is the owner of the trademark or service mark or to a competitor of Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Names; or
- (ii) that Respondent has registered the Domain Names 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 Names primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Names, 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 Names in bad faith.

Because Complainant's mark had been used and registered by Complainant before the Domain Names registrations, and noting the content of the corresponding websites, it is clear that Respondent had Complainant's mark in mind when registering the Domain Names (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

Furthermore, the content of the websites to which the Domain Names <lplmarket.com>, <lplmarkets.com> and <lplmarketsvip.com> lead, gave the impression that they originated from Complainant, prominently displaying Complainant's trademarks and product photographs on the Websites, thereby giving the false impression that the websites emanated from or are endorsed by Complainant. This further supports registration in bad faith reinforcing the likelihood of confusion, as Internet users are likely to consider the Domain Names as in some way endorsed by or connected with Complainant ([WIPO Overview 3.0](#), section 3.1.4).

The Domain Names incorporate entirely Complainant's trademark (or a misspelt version thereof) plus additional words. This further indicates that Respondent knew of Complainant and chose the Domain Names with knowledge of Complainant and its industry (*Safepay Malta Limited v. ICS Inc.*, WIPO Case No. [D2015-0403](#)).

As regards bad faith use, Complainant demonstrated that the Domain Names <lplmarket.com>, <lplmarkets.com> and <lplmarketsvip.com> were employed to host websites which appeared falsely to be those of or endorsed by Complainant.

Furthermore, the Domain Names have been operated by intentionally creating a likelihood of confusion with Complainant's trademark and business. This further supports the finding of bad faith use (*Arkema France v. Aaron Blaine, supra*; *Aktiebolaget Electrolux v. Priscilla Quaiotti Passos*, WIPO Case No. [D2011-0388](#); and [WIPO Overview 3.0](#), sections 3.1.4 and 3.2.1).

The Panel notes that the Domain Names currently lead to inactive websites. The non-use of a domain name does not prevent a finding of bad faith under the circumstances of this proceeding (See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#); [WIPO Overview 3.0](#), section 3.3).

Under these circumstances and on this record, the Panel finds that Respondent registered and is using the Domain Names in bad faith.

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

8. 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 Names <lplfinancialtd.com>, <lplmarket.com>, <lplmarkets.com>, and <lplmarketsvip.com> be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: July 24, 2023