

## **ADMINISTRATIVE PANEL DECISION**

Lightspeed LLC v. Mohitkumar Jadav  
Case No. D2023-3766

### **1. The Parties**

The Complainant is Lightspeed LLC, United States of America (the “United States”), represented by Foley & Lardner, United States.

The Respondent is Mohitkumar Jadav, India.

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

The disputed domain name <lifepointsurvey.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 September 8, 2023. On September 11, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 11, 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 (Undisclosed - Privacy Proxy) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 13, 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 amendment to the Complaint on September 18, 2023.

The Center verified that the Complaint together with the amendment to 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 September 19, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 9, 2023. The Respondent sent an informal email communication to the Center on September 19, 2023. Accordingly, the Center sent a possible settlement to the Parties on September 19, 2023. The Complainant did not request for a suspension of the proceedings. The Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on October 16, 2023.

The Center appointed Marilena Comanescu as the sole panelist in this matter on October 20, 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, a United States based company is the holder of the United States Trademark LIFEPOINTS (“o” letter stylized) registration no. 7078278, filed on November 3, 2021, and registered on June 13, 2023, covering goods and services in Nice classes 9 and 35.

The Complainant also owns the domain name <lifepointspanel.com>, its primary webpage, through which it is offering its goods and services.

The disputed domain name was registered on December 25, 2020, and at the time of filing the Complaint, it resolved to a webpage that impersonates the Complainant’s business and offers survey products and services in exchange for payment and other rewards/incentives displaying, as well, the Complainant’s trademark. No “contact us”/similar option that would identify the true owner is available. In fact, the only live link buttons on the website under the disputed domain name lead the Internet users to the Complainant’s official webpage, without any authorization.

The Respondent sent an informal email communication to the Center on September 19, 2023.

#### **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 disputed domain name.

Notably, the Complainant contends that the disputed domain name is identical, and confusingly similar to its trademark LIFEPOINTS used in commerce since at least 2016, LIFEPOINTS is an arbitrary term which has no meaning outside its use as a means to identify the Complainant as a source of certain products and services; that the Respondent has no rights or legitimate interests in the disputed domain name; and that the Respondent registered and is using the disputed domain name in bad faith for a website using the Complainant’s trademark and logo, and listings links to the Complainant’s website, in a bad faith and fraudulent effort to deceiving prospective and current customers of the Complainant for the Respondent’s personal economic gain by virtue of web traffic or some other bad faith motive.

##### **B. Respondent**

The Respondent did not formally reply to the Complainant’s contentions, other than the communication in which he stated that he removed all content on the website under the disputed domain name, and, that “if any issue. You can remove my domain. I already remove all content”

#### **6. Discussion and Findings**

In view of the absence of a formal Response, the discussion and findings will be based upon the contentions in the Complaint and any reasonable position that can be attributable to the Respondent. Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the following circumstances are met:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will further analyze the potential concurrence of the above circumstances.

### **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 disputed 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 mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other term here, "(s)urvey", may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed 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 disputed 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 disputed domain name such as those enumerated in the Policy or otherwise.

At the time of filing the Complaint, the disputed domain name resolved to a website advertising goods and services identical to those provided by the Complainant, displaying the Complainant's trademark and providing a link redirecting the Internet users to the Complainant's official website. UDRP panels have held that the use of a domain name for illegal activity (*e.g.*, the sale of counterfeit goods, phishing, distributing malware, unauthorized account access/hacking, impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

In the present case, the Panel notes that the disputed domain name was registered in bad faith, with knowledge of the Complainant and its trademark particularly because it incorporates the Complainant's LIFEPOINTS trademark registered since 2021 and used in commerce since 2016 with the term "(s)urvey" descriptive for the Complainant's business. Furthermore, the use of the disputed domain name in relation to identical goods and services, and the Complainant's mark and official website, corroborates this judgement.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Paragraph 4(b)(iv) of the Policy provides that the use of a domain name to intentionally attempt "to attract, for commercial gain, Internet users to [the respondent's] website or other online 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" is evidence of registration and use in bad faith.

According to the evidence provided in the Annex 5 to Complaint, and unrefuted by the Respondent, the disputed domain name was used in connection with a website displaying the Complainant's trademark and logo and promoting identical goods and services to those provided by the Complainant.

Given that the disputed domain name incorporates the Complainant's trademark, the website operated under the disputed domain name displayed the Complainant's LIFEPOINTS mark and logo, and diverts to the Complainant's official website without any authorization, the Panel finds that the Respondent intended to attract Internet users accessing the website corresponding to the disputed domain name who may be confused and believe that the website is held, controlled by, or somehow affiliated or related to the Complainant, for its commercial gain. This activity may also disrupt the Complainant's business and tarnish its trademark.

The Panel notes the distinctiveness of the Complainant's trademark; the composition of the disputed domain name and its use by the Respondent; the Respondent's failure to provide a formal response in this procedure, together with the informal email communication he sent on September 19, 2023, and, together with all the documents before it, finds these facts as further evidence of registration and use in bad faith.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 disputed domain name, <lifepointsurvey.com>, be transferred to the Complainant.

*/Marilena Comanescu/*

**Marilena Comanescu**

Sole Panelist

Date: October 30, 2023