

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Carolina Rodrigues, Fundacion Comercio Electronico Case No. D2023-4635

1. The Parties

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

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 8, 2023. On November 9, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 9, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 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 amended Complaint on November 13, 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 November 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 5, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 6, 2023.

The Center appointed Ian Lowe as the sole panelist in this matter on December 12, 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 was founded in 1989 through the merger of two brokerage firms – Linsco and Private Ledger. It is a leader in the retail financial advice market and one of the largest independent broker-dealers in the United States. The Complainant serves independent financial advisors and financial institutions, providing them with the technology, research, clearing and compliance services, and practice management programs, they need to create and grow their practices.

Since 2010, LPL has been publicly traded on the NASDAQ. It provides an integrated platform of brokerage and investment advisory services to advisors at approximately 1,100 institution-based investment programmes and at around 500 registered investment advisor (RIA) firms nationwide, managing over USD 1.1 trillion in advisory and brokerage assets. The Complainant has over 4,800 employees, with its primary offices in San Diego, California; Fort Mill, South Carolina; Boston, Massachusetts; and Austin, Texas, United States. In the second quarter of 2023, its gross profit reached over USD 990 million, with a net income of over USD 286 million.

The Complainant is the proprietor of a number of registered trademarks for LPL and LPL FINANCIAL, including United States trademark number 1801076 LPL registered on October 26, 1993; European Union trademark number 3753607 LPL registered on May 13, 2022; United States trademark number 3662425 stylised word “LPL Financial” and device registered on August 4, 2009; and United Kingdom trademark number 3753611 LPL FINANCIAL registered on May 13, 2022.

The Complainant operates a website at “www.lpl.com” (the “Complainant’s Website”) promoting its services. The <lplfinancial.com> domain name also resolves to the Complainant’s Website.

The Domain Name was registered on September 6, 2023. It currently resolves to an entirely blank pale blue webpage, but at the time of preparation of the Complaint resolved to a parking page comprising sponsored links. At that time the Domain Name was also offered for sale on the Afternic.com domain name sales platform for USD 1,299.

The Respondent has been the subject of numerous successful complaints against it under the UDRP.

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.

B. Respondent

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

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

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.

The Complainant has uncontested rights in the LPL and LPL FINANCIAL trademarks, both by virtue of its trademark registrations and as a result of the goodwill and reputation acquired through use by the Complainant over a number of years. Ignoring the generic Top-Level Domain ("gTLD") ".com", the Domain Name comprises the entirety of the LPL mark and is identical to the Complainant's LPL FINANCIAL mark save for the switching of the letters "c" and "i". In the Panel's view, this amounts to classic "typosquatting" intended to take advantage of Internet users, including email recipients, not noticing the substituted letter, and intended to be confusingly similar to the Complainant's LPL FINANCIAL mark. In the Panel's view, the slight misspelling does not prevent a finding of confusing similarity.

Based on the available evidence, the Panel finds that the Domain Name is confusingly similar to a mark in which the Complainant has rights.

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.

Although 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 difficult task of "proving a negative", requiring information that is often primarily within the knowledge or control of the respondent. Accordingly, 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 (although the burden of proof always remains on the complainant). 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.

In the Panel's view, the Domain Name is a typical example of typosquatting, whereby a domain name is registered with a minor variation of a well-known brand name with a view to taking advantage of typographical errors or mistaken perception by Internet users. Such a registration cannot possibly, on the face of it, give rise to rights or legitimate interests on the part of the registrant of a domain name. Furthermore, the Respondent has not made any use of the Domain Name that might give rise to such rights or interests.

Having reviewed the available evidence, 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 such as those enumerated in the Policy or otherwise.

Accordingly, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

In light of the nature of the Domain Name, comprising a slight misspelling of the Complainant's name and mark, the Panel is in no doubt that the Respondent had the Complainant and its rights in the LPL FINANCIAL mark in mind when it registered the Domain Name, and that it did so with the intention of using the Domain Name to deceive Internet users into believing that it was registered by or associated with the Complainant for legitimate purposes related to the Complainant's activities. The Panel cannot conceive of a legitimate use to which the Respondent could put the Domain Name. The obvious inference is that the Respondent registered and uses the Domain Name for commercial gain with a view to taking unfair advantage of the Complainant's rights in the Mark, including through sponsored links on the parking page to which the Domain Name resolved.

Furthermore, the Panel considers that typosquatting amounts to paradigm bad faith registration and use for the purposes of paragraph 4(a) of the Policy.

Despite the fact that currently there appears to be no active use of the Domain Name, section 3.3 of the [WIPO Overview 3.0](#) notes that, from the inception of the UDRP, panelists have found that the non-use of a domain name does not prevent a finding of bad faith under the doctrine of passive holding. It depends on the facts of the case, including "(i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put".

In this case, the Complainant's mark is distinctive; the Respondent has failed to respond to the Complaint; and the Panel cannot conceive of any good faith use to which the Respondent could put the Domain Name.

Based on the available evidence, the Panel finds that the Complainant has established the third element 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 Domain Name <lplfinanical.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: December 26, 2023