

## **ADMINISTRATIVE PANEL DECISION**

LPL Financial LLC v. Alfred Andolini

Case No. D2023-5124

### **1. The Parties**

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

The Respondent is Alfred Andolini, Germany.

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

The disputed domain name <lpl.finance> is registered with Hostinger Operations, UAB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 7, 2023. On December 8, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 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 (Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 11, 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 December 14, 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 December 15, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 8, 2024.

The Center appointed Andrea Mondini as the sole panelist in this matter on January 11, 2024. 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, is headquartered in San Diego, has over 4,800 employees, is publicly traded on the NASDAQ and is one of the largest independent broker-dealer in the United States.

The Complainant holds several domain names containing the acronym LPL, among them <lpl.com> and <lpl-financial.com> which host its main website.

The Complainant owns numerous trademark registrations in several jurisdictions, including:

TRADEMARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE	INTERNATIONAL CLASS
LPL	United States	1801076	October 26, 1993	36
LPL	European Union	018653022	May 26, 2022	36
LPL FINANCIAL	United Kingdom	UK00003753611	May 13, 2022	36, 42

Because the Respondent did not file a Response, not much is known about the Respondent.

The disputed domain name was registered on September 5, 2023.

According to the evidence submitted with the Complaint, the disputed domain name resolved to a website purporting to offer cryptocurrency and general financial trading services. The Respondent's website purportedly offered various types of accounts. In order to open such an account, users were required to pay an initial deposit in amounts ranging from USD 5,000 to USD 1,000,000.

#### 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 as follows:

The disputed domain name is identical or confusingly similar to the LPL and LPL FINANCIAL trademarks in which the Complainant has rights, because it incorporates the LPL trademark in its entirety and the use of generic Top-Level Domain ("gTLD") "finance" instead of "financial L" does not dispel a confusing similarity.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The trademarks LPL and LPL FINANCIAL have been extensively used to identify the Complainant and its services. The Respondent has not been authorized by the Complainant to use these trademarks, is not commonly known by the disputed domain name, and the Respondent is not making a legitimate noncommercial use of the disputed domain name. To the contrary, the Respondent's use of the disputed domain name creates a misleading impression of association with the Complainant in the furtherance of a fraudulent online scheme, and such a use does not constitute legitimate noncommercial or fair use of the disputed domain name.

The disputed domain name was registered in bad faith because it is obvious that the Respondent had knowledge of both the Complainant and its well-known trademarks LPL and LPL FINANCIAL at the time it registered the disputed domain name.

The Respondent is using the disputed domain name in bad faith, because it resolves to a website purporting to offer cryptocurrency and general financial trading services, yet no financial regulatory information is provided. Further, various types of accounts can be created by users subject to payment of an advance fee ranging from USD 5,000 to USD 1,000,000. The Complainant infers that the Respondent's use of the disputed domain name is fraudulent in nature. The Respondent has used the disputed domain name as part of a fraudulent scheme purporting to provide trading services under a variation of the Complainant's "LPL Financial" name and logo. Such use of the disputed domain name may cause unsuspecting Internet users to be misled into believing that they are dealing with the Complainant. The use of a privacy service to register the disputed domain name further evidences the Respondent's bad faith.

## **B. Respondent**

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

## **6. Discussion and Findings**

According to paragraph 4(a) of the Policy, in order to succeed, a complainant must establish each of the following elements:

- (i) the disputed domain name is identical or confusingly similar to the trademark or service mark in which the complainant has rights;
- (ii) the respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the disputed 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.

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 LPL is reproduced within the disputed domain name.

The use of the gTLD ".finance" in a domain name is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. The meaning of such gTLD may however be relevant to panel assessment of the second and third elements. [WIPO Overview 3.0](#), section 1.11.1.

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.

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. 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 (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.

Having reviewed the available 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.

The composition of the disputed domain name, compromised by the Complainant's LPL trademark and the use of the gTLD “finance”, which directly relates to goods or services of the Complainant, supports a finding that the Respondent obtained the disputed domain name to take advantage of the Complainant's mark and as such that the Respondent lacks rights or legitimate interests in the domain name. [WIPO Overview 3.0](#), section 2.14.1.

Furthermore, the evidence provided in the Complaint indicates that the disputed domain name may be used to perpetrate a fraudulent scheme. Panels have held that the use of a domain name for illegal activity such as here impersonating the Complainant, 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.

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.

In the view of the Panel, noting that that the Complainant's trademarks predate the registration of the disputed domain name and considering that the Complainant's trademarks are well-known and that the disputed domain name resolves to a website offering financial services, it is inconceivable that the Respondent could have registered the disputed domain name without knowledge of the Complainant's well-known trademark. In the circumstances of this case, this is evidence of registration in bad faith.

The impression given by the website would cause Internet users to believe that the Respondent is somehow associated with the Complainant when, in fact, it is not. The Panel holds that by using the disputed domain name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website in the sense of Policy, paragraph 4(b)(iv).

Moreover, panels have held that the use of a domain name for illegal activity such as in the present case impersonating the Complainant constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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 that the Complainant has established the third element of the Policy with regard to the disputed domain name.

## **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 <lpl.finance> be transferred to the Complainant.

*/Andrea Mondini/*

**Andrea Mondini**

Sole Panelist

Date: January 15, 2024