

## **ADMINISTRATIVE PANEL DECISION**

### **LPL Financial LLC v. Lorene Richardson**

### **Case No. D2023-5244**

#### **1. The Parties**

The Complainant is LPL Financial LLC, United States of America ("U.S." or United States), represented by Hogan Lovells (Paris) LLP, France.

The Respondent is Lorene Richardson, U.S.

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

The disputed domain name <lpfinancialinc.com> (the "Disputed 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 December 15, 2023. On December 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On December 18, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 21, 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 26, 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 January 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 25, 2024.

The Center appointed Douglas M. Isenberg as the sole panelist in this matter on January 29, 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 states that it is a publicly traded company on Nasdaq (symbol: LPLA); that it “is a leader in the retail financial advice market, and is considered the largest independent broker-dealer in the United States”; that it “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”; that it “provides an integrated platform of brokerage and investment advisory services to more than 21,000 including advisors at approximately 1,100 institution-based investment programs and at approximately 500 registered investment advisor (RIA) firms, nationwide managing over USD 16.1 trillion in advisory and brokerage assets”; that it “has over 4,800 employees, with its primary offices in San Diego, California; Fort Mill, South Carolina; Boston, Massachusetts and Austin, Texas”; and that “[i]n the third quarter of 2023, [its] gross profit reached over USD 1.01 billion, with a net income of over USD 224 million.”

The Complainant states, and provides evidence to support, that it owns a number of registrations for trademarks that consist of or contains LPL or LPL FINANCIAL (the “LPL Trademark”), including the following:

- U.S. Reg. No. 1,801,076 for LPL (registered October 26, 1993) for use in connection with “financial management services”
- United Kingdom Reg. No. UK00003753611 for LPL FINANCIAL (registered May 13, 2022) for use in connection with, inter alia, “financial advice and financial management services”

The Disputed Domain Name was created on November 17, 2023. The Complainant states, and provides evidence to support, that the Disputed Domain Name “resolves to a parking page displaying sponsored links,” including those labeled “Money Management Advisor,” “Investment Account,” and “Financial Investment.”

#### **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 Complainant has rights in the LPL Trademark as a result of the registrations cited above, and the Disputed Domain Name is confusingly similar to the LPL Trademark because the Disputed Domain Name “comprises the Complainant’s LPL and LPL FINANCIAL trademarks with the addition of the descriptive abbreviation ‘inc under the gTLD .com’”; and “the addition of the descriptive abbreviation ‘inc’ to the Complainant’s trademark in the Domain Name does not prevent a finding of confusing similarity” because “Complainant’s trademark remains clearly recognizable in the Domain Name.”
- The Respondent has no rights or legitimate interests in the Disputed Domain Name because, inter alia, “Respondent has not received any licence or other authorization of any kind to make use of the Complainant’s trademarks in a domain name or otherwise”; [p]rior UDRP panels have held that the use of a domain name to host a parked page comprising sponsored links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant’s mark or

otherwise mislead Internet users”; “[t]here is no evidence to suggest that the Respondent is commonly known by the Domain Name”; and “Respondent’s use of the Domain Name is commercially motivated, and does not amount to legitimate noncommercial or fair use of the Domain Name within the meaning of paragraph 4(c)(iii) of the Policy.”

- The Disputed Domain Name was registered and is being used in bad faith because, inter alia, “Respondent could not credibly argue that it did not have knowledge of the Complainant and its rights in the LPL and LPL FINANCIAL trademarks when registering the Domain Name in November 2023, nearly 30 years after the Complainant’s first registration of its LPL trademark”; and “Respondent has sought to capitalize on... misdirected Internet users through the presence of sponsored links on the parking page to which the Domain Name resolves,” which creates a likelihood of confusion under paragraph 4(b)(iv) of the Policy.

## **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 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 shown rights in respect of a trademark or service mark for the purposes of the Policy, that is, LPL and LPL FINANCIAL. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the LPL Trademark (both LPL and LPL FINANCIAL) is reproduced 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.

Although the addition of other terms here, “inc,” 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 Disputed Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

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 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 present case, the Panel notes that the Respondent is using the Disputed Domain Name in connection with a monetized parking page that includes links related to the LPL Trademark. Numerous panels have found the registration and use of a domain name that is confusingly similar to a complainant's trademark to constitute bad faith pursuant to paragraph 4(b)(iv) of the Policy where, as here, the disputed domain name is associated with a monetized parking page that contains links for goods or services competing with the complainant. See, e.g., *Wal-Mart Stores, Inc. v. Whois Privacy, Inc.*, WIPO Case No. [D2005-0850](#); *Columbia Pictures Industries, Inc. v. North West Enterprise, Inc.*, WIPO Case No. [D2006-0951](#); and *Dr. Martens International Trading GmbH, Dr. Maertens Marketing GmbH v. Private Whois Service*, WIPO Case No. [D2011-1753](#).

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 Disputed Domain Name <lpfinancialinc.com> be transferred to the Complainant.

*/Douglas M. Isenberg/*

**Douglas M. Isenberg**

Sole Panelist

Date: February 5, 2024