

ADMINISTRATIVE PANEL DECISION

Phoenix Group Management Services Limited, Standard Life Assets and Employee Services Limited v. Kelvin Vogel
Case No. D2024-0153

1. The Parties

The Complainants are Phoenix Group Management Services Limited, United Kingdom, and Standard Life Assets and Employee Services Limited, United Kingdom, represented by Pinsent Masons LLP, United Kingdom.

The Respondent is Kelvin Vogel, United States of America.

2. The Domain Name and Registrar

The disputed domain name <standardlifeinvestmentsltd.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 January 15, 2024. On January 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 16, 2024, 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 (PERSON(S) UNKNOWN (Name Redacted for Privacy)) and contact information in the Complaint. The Center sent an email communication to the Complainants on January 17, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amendment to the Complaint on January 23, 2024.

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 January 23, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 12, 2024. The Respondent did not submit any response.

Accordingly, the Center notified the Respondent's default on February 14, 2024.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on February 20, 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 Complainants are subsidiaries of the Phoenix Group Holdings Plc, established in 1825 and presently one of the largest long-term savings and retirement businesses in the United Kingdom, ranked amongst the 100 largest British public companies, administering circa GBP 259 billion.

The Complainants' official website is available at "www.standardlife.co.uk", registered in 1996. In addition to various global registered trademarks, the Complainants have rights in the following trademarks:

- United Kingdom trademark registration No. UK00900496729, for the word mark STANDARD LIFE, filed on March 25, 1997, registered on March 10, 1999, successively renewed, in classes 35, 36, and 42;
- European Union trademark registration No. 007606511, for the word mark STANDARD LIFE, filed on February 17, 2009, registered on October 7, 2009, successively renewed, in classes 16, 35, and 36; and
- International trademark registration No. 1111055, for the word mark STANDARD LIFE, registered on October 17, 2011, successively renewed, in classes 16, 35, and 36.

The disputed domain name was registered on June 14, 2020, and presently does not resolve to an active webpage.

Active mail exchange (MX) servers have been configured at the disputed domain name and various emails have been sent to an individual in the United States of America from a person who stated to be employed at Standard Limited as a hedge fund manager and who persuaded the victim, after months of exchanging messages, to transfer this person USD 1.66 million.

5. Parties' Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the disputed domain name reproduces in its entirety the Complainants' well-known trademark with the addition of the word "investments" and of the letters "ltd" which are insufficient to avoid a finding of confusing similarity thereof.

As to the Respondent's lack of rights or legitimate interests in respect of the disputed domain name, the Complainants contend that: (i) the Respondent has no rights in relation to the STANDARD LIFE brand or the Complainants' trademarks which are incorporated in the disputed domain name in full or in part; (ii) there is no believable or realistic reason for the registration or use of the disputed domain name other than to take advantage of the Complainants' rights in the Complainants' STANDARD LIFE trademarks and their goodwill and reputation; and (iii) the disputed domain name is not being used in relation to a bona fide offering of goods and services and the Respondent is not making legitimate or fair use of the disputed domain name.

Lastly, in what it relates to the registration and use of the disputed domain name in bad faith, the Complainants assert that the combination of the reputation of the Complainants' STANDARD LIFE trademark and the near identity of the disputed domain name, will cause a false association between the disputed domain name and the Complainants STANDARD LIFE trademark and will lead the average Internet user to believe that the disputed domain name is owned by the Complainants, what is further corroborated by the fraud perpetrated against an individual in the United States of America through emails originated from the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy sets forth three requirements, which have to be met for this Panel to order the transfer of the disputed domain name to the Complainants:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights; and
- (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.

The Complainants must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

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 Complainants' 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 Complainants have 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 entirety of the mark 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 ("investments" and "ltd") 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.

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 Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants’ 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.

In that sense, the Complainants have indeed stated that the Respondent has no rights in relation to the STANDARD LIFE brand or the Complainants’ trademarks which are incorporated in the disputed domain name in full, there being no record of and license or authorization of any other kind that has been given by the Complainants to the Respondent to use the disputed domain name, nor has there any indication that the Respondent is commonly known by the disputed domain name.

Moreover, the configuration of active mail servers in connection with the disputed domain name and the use of the disputed domain name in connection with a fraudulent email scam, indicate that the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. In that sense, panels have held that the use of a domain name for illegal activity such as 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.

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.

This case presents the following circumstances which indicate under the balance of probabilities bad faith registration and use of the disputed domain name:

a) the composition of the disputed domain name reproducing the entirety of the Complainants’ well-known trademark with additional terms referring to the Complainants’ business (previous UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4);

b) the Respondent has provided no evidence whatsoever of any actual or contemplated good faith use of the disputed domain name; and

c) although the disputed domain name resolves to an inactive website, it has been used in connection with a fraudulent email scam.

Based on the available record, the Panel finds that the Complainants have 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 <standardlifeinvestmentsltd.com> be transferred to the Complainants.

/Wilson Pinheiro Jabur/

Wilson Pinheiro Jabur

Sole Panelist

Date: March 1, 2024