

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Ewt design, Mekshosting
Case No. D2024-0410

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 Nwonye Emeka, Ewt design/Mekshosting, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <lplfintrade.com> is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 29, 2024. On January 30, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 30, 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 (Domain Admin, PrivacyGuardian.org LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 31, 2024, 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 February 5, 2024.

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 February 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 27, 2024.

The Center appointed Rachel Tan as the sole panelist in this matter on March 4, 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 is an independent brokerage firm based in the United States which was founded in 1989. It provides brokerage and investment advisory services to independent financial advisors and financial institutions in the financial service sector. Since 2010, the Complainant has been publicly traded on the NASDAQ under “LPLA” and has managed over USD 1.1 trillion in advisory and brokerage assets in the United States.

The Complainant is the owner of the LPL and LPL FINANCIAL marks in different jurisdictions. For example, United States Registration No. 1801076 for LPL registered on October 26, 1993, in Class 36, United Kingdom Registration No. UK00003753607 for LPL registered on May 13, 2022, in Classes 36 and 42, and United Kingdom Registration No. UK00003753611 for LPL FINANCIAL registered on May 13, 2022, in Classes 36 and 42.

Separately, the Complainant is the owner of the domain name <lpl.com> and has used it as its main corporate website since 1994. Amongst others, the Complainant also owns other domain names, such as <lpl.net>, <lpl-financial.com> and <lplaccountview.com>. The Complainant’s parent company is also the applicant of the generic Top Level Domains (“gTLD”) “.lpl” and “.lplfinancial”.

The disputed domain name was registered on December 5, 2023. At the time of the Complaint, it redirected to the Complainant’s website at “www.lpl.com”. Mail exchange (“MX”) records have been configured for the disputed domain name. At the time of this Decision, it does not resolve to any active website.

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 or confusingly similar to the Complainant’s LPL and LPL FINANCIAL marks. The Complainant’s LPL mark is incorporated in the disputed domain name in its entirety. The disputed domain name is also confusingly similar to the Complainant’s LPL FINANCIAL mark with a slight variation from “financial” to its abbreviation “fin”. The additional word “trade” is a descriptive term and does not prevent a finding of confusing similarity. The Complainant also quotes . WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.11.1 and argues that the applicable gTLD (“.com”) may be disregarded for the purposes of assessment under the first element.

The Complainant further alleges that the Respondent has no rights or legitimate interest in respect of the disputed domain name. The Respondent has not received any license or authorization of any kind to use the Complainant’s trademarks in a domain name or otherwise. At the time of the Complaint, the disputed domain name redirected to the Complainant’s official website which is not a bona fide offering of goods or services. Such use also does not constitute legitimate noncommercial or fair use of the disputed domain name. The Respondent is not commonly known by the disputed domain name. This is evident by the fact that the disputed domain name was registered using a privacy service and there is no evidence that the Respondent has acquired or applied for any trademark for LPL and LPL Financial or any variation thereof.

Finally, the Complainant asserts that the Respondent registered the disputed domain name in bad faith. The disputed domain name was registered 30 years after the Complainant's first registration of its LPL mark. Given the well-known status of the Complainant's marks, the Respondent could not credibly argue that it did not have knowledge of the Complainant at the time of registering the disputed domain name. Moreover, the Complainant observes that the primary search results for "LPL Financial" in the search engine Google refer almost exclusively to the Complainant. At the time of Complaint, the disputed domain name redirected to the Complainant's website and MX records have been configured for the disputed domain name. The Complainant submits that there is an appreciable risk that the disputed domain name could be used in connection with a fraudulent email scheme targeting the Complainant's advisors and/or clients, or for other fraudulent purposes.

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 3.0](#), section 1.7.

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 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 "fin" and "trade" 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.

Lastly, it is permissible for the Panel to ignore the gTLD, in this case ".com", under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available records, 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 Respondent has not provided evidence of a legitimate or noncommercial use of the disputed domain name or reasons to justify the choice of the disputed domain name that is confusingly similar to the Complainant's LPL and LPL FINANCIAL marks. There is also no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. Moreover, the Complainant has not granted the Respondent any license or authorization to use the Complainant's LPL or LPL FINANCIAL marks or register the disputed domain name.

At the time of the Decision, the disputed domain name does not resolve to an active website. Based on the undisputed submission and evidence provided by the Complainant, the disputed domain name previously redirected to the official website of the Complainant. UDRP panels have previously found that an unauthorized redirection to a complainant's website does not serve as evidence of rights or legitimate interests, nor a bona fide offering of goods and services. See *Carrefour v. WhoisGuard, Inc., WhoisGuard Protected / Robert Jurek, Katrin Kafut, Purchasing clerk, Starship Tapes & Records*, WIPO Case No. [D2017-2533](#). Also noting the composition of the disputed domain name, the Panel finds that the redirection to the Complainant's official website has been created with the intention of misleading Internet users and target the Complainant. [WIPO Overview 3.0](#), sections 2.5.2 and 2.13.

None of the circumstances in paragraph 4(c) of the Policy are present in this case. For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

Based on the available records, 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 widespread reputation of the Complainant's LPL and LPL FINANCIAL marks was recognized in *LPL Financial LLC v. □ □ □ (Qianmengdan)*, WIPO Case No. [D2021-0150](#); *LPL Financial LLC v. Alfred Andolini*, WIPO Case No. [D2023-5124](#). The disputed domain name was registered long after the registration of the Complainant's LPL mark. Search results using the key words "LPL" and "finance" and "trade" on Internet search engines direct Internet users to the Complainant and its business. As such, the Respondent either knew or should have known of the Complainant's LPL and LPL FINANCIAL marks when registering the disputed domain name and has exercised "the kind of willful blindness that numerous panels have held support a finding of bad faith". See *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#) and [WIPO Overview 3.0](#), section 3.2.2.

Furthermore, the Panel considers the mere registration of a domain name that is confusingly similar to a well-known trademark by an unaffiliated person can by itself create a presumption of bad faith. [WIPO Overview 3.0](#), section 3.1.4, and section 3.2.1.

The Panel also notes that the Respondent's previous use of the disputed domain name which redirected to the Complainant's official website indicates that the Respondent possibly registered the disputed domain name with the intention to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the trademarks of the Complainant as to the source, sponsorship, affiliation, or endorsement of its website or location or of a service on its website or location, which constitutes registration and use in bad faith in a similar manner to that provided under paragraph 4(b)(iv) of the Policy. [WIPO Overview 3.0](#), section 3.1.4

The Panel also notes that the Respondent has set up MX records for the disputed domain name, indicating the possibility that the disputed domain name may be used for fraudulent email communication. See *Tetra Laval Holdings & Finance S.A. v. Himali Hewage*, WIPO Case No. [D2020-0472](#); *Altria Group, Inc. and Altria Group Distribution Company v. Emerson Terry*, WIPO Case No. [D2021-0045](#).

The Respondent has failed to rebut the Complainant's allegations of bad faith in this proceeding. Further, the Respondent has taken active steps to conceal its identity using a privacy service. Taking into account these circumstances, the Panel finds that: (i) the Respondent must have known of the Complainant before registering the disputed domain name and, (ii) considering the Respondent's lack of rights or legitimate interests, and (iii) by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Based on the available record, 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 <lplfintrade.com> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: March 18, 2024