

ADMINISTRATIVE PANEL DECISION

Liquidity Technologies Ltd, and Liquidity Technologies Software Ltd v. Mark Lamb

Case No. D2024-0456

1. The Parties

Complainants are Liquidity Technologies Ltd, Seychelles, and Liquidity Technologies Software Ltd, China, represented by Tanner De Witt, China.

Respondent is Mark Lamb, China, represented by Hauzen LLP in association with AnJie Broad Law Firm LLP, China.

2. The Domain Name and Registrar

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

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2024. On February 1, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On February 1, 2024, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email to Complainants on February 2, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainants to submit an amendment to the Complaint. Complainants filed an amended Complaint on February 9, 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 Respondent of the Complaint, and the proceedings commenced on February 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 23, 2024. The Response was filed with the Center on March 22, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on March 27, 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

There is a rather convoluted record in this case, as the Parties know each other well and, indeed, have been embroiled in litigation in Hong Kong for some time prior to the filing of the Complaint in this proceeding. The Panel will recount only such facts as may be sufficient to establish that this dispute should be resolved in court and not in a UDRP proceeding. (Curiously, the Panel notes, Complainants stated in their initial Complaint that they did not know who was the owner of the Domain Name at the time the Complaint was filed.)

Complainants allege as follows:

“The 1st Complainant, Liquidity Technologies Ltd (‘LTL’), is a company incorporated in the Republic of Seychelles and had run and operated a crypto derivatives exchange platform (‘Exchange Platform’) under its trade name and trade mark ‘CoinFLEX’ since its inception in 2018.”

“The 2nd Complainant, Liquidity Technologies Software Ltd (‘LTSL’), is a company incorporated in Hong Kong Special Administrative Region of China and is a wholly owned subsidiary of LTL. [...] LTSL supported LTL’s Exchange Platform operations by inter alia employing the Hong Kong team and managing part of its finances.”

Complainants allege that they “have common law rights in the trade mark ‘CoinFLEX’ having owned and operated a crypto derivatives exchange platform under the that name and the disputed domain name <coinflex.com> since 2018 until 2023 when the domain name (and platform) was misappropriated.” According to Complainants:

“The disputed domain name was registered on 22 November 2018, and was ‘updated’ on 24 April 2023 [...] suggesting the domain name was transferred on that date. The disputed domain name until recently resolved to a blank page with the words ‘Coinflex services have been suspended’. In late January 2024, approximately one week prior to the filing of this complaint, the domain name no longer resolved to any page.”

It appears from the record that Respondent was the founder and, for a time, the sole director of LTL, and was a director of LTSL. Respondent asserts that he still holds a beneficial ownership interest in LTL.

Respondent asserts, and annexes to the Response an apparently contemporaneous email exchange to corroborate this, that he acquired the Domain Name on or about December 18, 2018 from an unrelated third party.

According to the Whois record, the Domain Name was first registered on November 22, 2018, and was “updated” on April 24, 2023.

For several years, the Domain Name resolved to a website promoting Complainants’ “CoinFLEX” business. According to Respondent, he acquired the Domain Name, as the founder of Complainant LTL, “in good faith intending to license or lend it” to Complainants.

By 2023, Complainants and Respondent had become embroiled in litigation before the High Court of Hong Kong Special Administrative Region Court of First Instance, Action No. 1646 of 2023 (the “Litigation”). Claimants were apparently alleging, among other things, that Respondent was breaching his fiduciary duty toward Complainants by operating a competing business and misappropriating assets, confidential

information, business opportunities, and so forth for the benefit of the competing business. Among other things, Complainants sought a court order requiring Respondent to provide any information he had regarding any “domain names” “underpinning the operation of CoinFLEX”. It appears from the record provided that the High Court ordered Respondent, in a temporary injunction, to provide such information. How the Litigation will ultimately conclude is of course a matter of speculation.

5. Parties’ Contentions

A. Complainant

Complainants contend that they have satisfied each of the elements required under the Policy for the transfer of each of the Domain Names.

B. Respondent

Respondent has disputed many aspects of Complainants’ Complaint, including the claim that Complainants enjoyed common law trademark rights or any sort of trademark rights at the time Respondent acquire the Domain Name. Respondent also asserts that he acquired the Domain Name in good faith, as he had been the founder and sole director of Complainant LTL at the time (and LTSL did not even exist at that time).

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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.

Rather than address the three elements required under the UDRP for a transfer of the Domain Name, the Panel here will make the finding that this dispute is not a good candidate for resolution in a streamlined UDRP proceeding when there is already litigation afoot between the Parties, and such litigation appears to encompass – among myriad other issues – the issue whether Respondent should retain or cede ownership of the Domain Name to Complainants.

In this instance, the Panel finds it unnecessary to wade through the cases dealing with the aforesaid situation. Once again, the Parties here are already engaged in fairly extensive litigation over myriad aspects of their business relationship, including, it appears, ownership of intellectual property, client information, assets, and domain names. It is certainly reasonable to suppose that the fate of the Domain Name at issue in this UDRP proceeding – which is identical to the alleged COINFLEX trademark and has the coveted “.com” gTLD – is likely to be adjudicated in the Litigation, where a much better record may be developed.

In sum, the Panel concludes that the dispute over the Domain Name is best addressed in the ongoing Litigation, and not in a UDRP proceeding.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: April 14, 2024