

## **ADMINISTRATIVE PANEL DECISION**

LPL Financial LLC v. John Ofili, CJN WEBSERVICE

Case No. D2024-0530

### **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 John Ofili, CJN WEBSERVICE, Nigeria.

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

The disputed domain name <lpl-databaseassetholdings.com> is registered with Global Domain Group LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 5, 2024. On February 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 5, 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 (REDACTED FOR PRIVACY, Global Domain Group Privacy Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 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 12, 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 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2024. The Respondent sent an email communication to the Center on February 19, 2024.

The Center appointed Willem J. H. Leppink as the sole panelist in this matter on March 14, 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 following facts are undisputed.

The Complainant is a large independent broker-dealer in the United States. It was founded in 1989 and promotes a range of financial services, offering clients advice on retirement planning, and brokerage solutions as well as retirement plan resources. Since 2010, the Complainant has been publicly traded on the NASDAQ under the name "LPLA".

The Complainant is the owner of various registered trademarks for the name "LPL", including the following:

- United States trademark for the word mark LPL, registered on October 26, 1993, with registration number 1801076; and
- European Union trademark for the word mark LPL, registered on May 26, 2022, with registration number 018653022.

The Complainant's trademarks cover services in class 36, e.g., financial services. All of the Complainant's trademarks were registered before the disputed domain name, which was registered on January 12, 2024.

The Complainant is also the registrant of several domain names including the LPL trademark, i.e., <lpl.com>, <lpl-financial.com>, and <lplaccountview.com>.

Prior to the filing of the Complaint, the disputed domain name resolved to a website purporting to offer cryptocurrency trading services. On this website, the contact details of the Complainant were listed. At the time of submission of the Complaint, the disputed domain name has been suspended further to the Complainant's request and therefore resolves to an inactive web page.

#### **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 to the following.

The Complainant submits that the inclusion of the Complainant's LPL trademark in the disputed domain name is sufficient to establish confusing similarity. The Complainant submits that the addition of the descriptive terms "database asset holdings" to the Complainant's trademark in the disputed domain name does not prevent a finding of confusing similarity. The Complainant's LPL trademark, placed in a leading position and isolated through the use of a hyphen, remains recognizable within the disputed domain name.

Furthermore, the Complainant contends that the Respondent has not received any license or other authorization of any kind to make use of the Complainant's trademark. The disputed domain name previously resolved to a website purporting to offer cryptocurrency trading services. This website listed the Complainant's name and principal place of business as contact details. However, the underlying registrant

details disclosed by the Registrar indicate that the Respondent is based in Nigeria. Such use of the disputed domain name supports an inference that the Respondent has not been using the disputed domain name in connection with a genuine business offering. Therefore, the Complainant submits that the Respondent has attempted to create confusion with the Complainant in an attempt to mislead Internet users. Additionally, there is no evidence that the Respondent is commonly known by the disputed domain name nor that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

The Complainant infers from the Respondent's use of the disputed domain name in connection with a website that used the Complainant's name and principal place of business, holding itself out as a financial services provider, that the Respondent had actual knowledge of the Complainant and its LPL trademark at the time of registering the disputed domain name. Furthermore, the Complainant contends that the use of the disputed domain name by the Respondent is fraudulent in nature and therefore the Respondent cannot have any rights or legitimate interest to the disputed domain name.

## **B. Respondent**

The Respondent responded to the Complaint and agreed with the facts as brought forward. The Respondent does not want to dispute anything or profess any claim as the Respondent agrees that there is a trademark issue. Furthermore, in its response, the Respondent states that the disputed domain name can be terminated or cancelled.

## **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. [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 here, "databaseassetholdings", 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 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.

Panels have held that the use of a domain name for illegal activity as applicable to this case: 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.

Furthermore, the Respondent agreed with the Complainant and specifically stated to not dispute anything. The Respondent has, in its response, not brought forward any relevant evidence demonstrating rights or legitimate interests, but on the contrary, agreed with the Complainant.

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 Respondent intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's mark.

Panels have held that the use of a domain name for illegal activity as applicable to this case: impersonation/passing off or other types of fraud 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.

Also, with respect to this element, the Panel notes that the Respondent agreed with the Complainant and specifically stated to not dispute anything.

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 <lpl-databaseassetholdings.com> be transferred to the Complainant.

*/Willem J. H. Leppink/*  
**Willem J. H. Leppink**  
Sole Panelist  
Date: March 22, 2024