

## ADMINISTRATIVE PANEL DECISION

EYGN Ltd v. Pei Qiang Li  
Case No. D2024-0759

### 1. The Parties

The Complainant is EYGN Ltd, United States of America ("United States"), represented by ZeroFox, United States.

The Respondent is Pei Qiang Li, Germany.

### 2. The Domain Name and Registrar

The disputed domain name <parthenon-ey.com> is registered with Instra Corporation Pty Ltd. (the "Registrar").

### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on February 19, 2024. On February 20, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 20, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 21, 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 amendment to the Complaint on February 28, 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 March 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 2, 2024.

The Center appointed Zoltán Takács as the sole panelist in this matter on April 5, 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.

On April 18, 2024, the Panel issued the following Administrative Procedural Order No. 1 ("Panel Order") requesting the Complainant to clarify and elaborate with supporting evidence regarding (1) its ownership of the United States Trademark Registration no. 5064543 (the "Mark"), i.e., whether the listed Complainant is the owner of the Mark, and (2) its claim of common law trademark rights in the EY-PARTHENON mark; and inviting the Respondent to comment on the Complainant's further submissions (if any).

In its response to the Panel Order the Complainant stated that:

1. the Complainant operates offices around the world including in Nassau, Bahamas, and the entity in the Bahamas is responsible for registering a number of trademarks worldwide; and that the Complainant "has all rights and privileges afforded to them by any trademark registered by their office in the Bahamas";
2. the Complainant possesses rights in the mark PARTHENON since it has acquired in 2014 the company called The Parthenon Group, LLC, owner of the United States Trademark Registration No. 2278782 for the word mark PARTHENON registered in 1999.

The Respondent did not reply to the Panel Order.

#### **4. Factual Background**

The Complainant in this administrative proceeding is EYGN Ltd, otherwise known as E&Y, EY or Ernst and Young Global Limited.

The Complainant is a multinational professional service partnership, one of the largest professional services networks in the world with over 700 offices in more than 150 countries of the world.

In 2014 the Complainant acquired The Parthenon Group, LLC, which under the brand name EY-Parthenon operates as the global strategy consulting arm within the EY organization.

The Complainant's entity located in Nassau, the Bahamas is among others owner of the United States Trademark Registration No. 5064543 for the word mark EY registered on October 18, 2016.

The Parthenon Group, LLC is owner of the United States Trademark Registration No. 2278782 for the word mark PARTHENON registered on September 21, 1999.

The disputed domain name was registered on October 14, 2015 and redirects to the Complainant's official "www.ey.com" 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 wholly incorporates the EY-PARTHENON marks. The Respondent simply swapped the placement of the two parts "EY" and "Parthenon". There is no alternative meaning to the disputed domain name nor does the swap change the underlying whole incorporation of the marks;

- the Respondent has no rights or legitimate interests in respect of the disputed domain name since it is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy;
- it is well established that the whole incorporation of the Complainant's marks at the time of registration is enough to establish bad faith at the time of registration;
- the wholly incorporated marks along with the redirection to the Complainant's official domain name makes it clear that the Respondent is fully aware of the Complainant and is attempting to create confusion, using the goodwill and reputation of the Complainant to impersonate it and disrupt their business for the Respondent's own gain.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions.

## **6. Discussion and Findings**

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) the 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.

### **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.

A trademark owner's affiliate such as a subsidiary of a parent or of a holding company - in this case an entity belonging to the EY organization - is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint and the Panel finds that the Complainant has shown rights in respect of the marks for the purposes of the Policy. [WIPO Overview 3.0](#), sections 1.4.1 and 1.2.1.

The EY and PARTHENON marks are fully reproduced within the disputed domain name in the reverse order and separated by a dash symbol which does not prevent a finding of confusing similarity between the disputed domain name and the marks for the purposes of the Policy.

Accordingly, the disputed domain name is confusingly similar to the marks in which the Complainant has rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The Panel finds that 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’s redirection of the disputed domain name to the Complainant’s official website can’t confer any rights or legitimate interests on the Respondent regarding the disputed domain name.

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.

Having reviewed the record, the Panel finds the Respondent’s registration and use of the disputed domain name constitutes bad faith under the Policy.

The 2014 merger of EY and The Parthenon Group, LLC was notably publicized in the international media well before the Respondent’s acquisition of the disputed domain name in 2015. In the Panel’s view, it is reasonable to assume that the Respondent was aware of this merger and the Complainant’s rights in the EY and PARTHENON marks and has registered the disputed domain name to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s marks. Paragraph 4(b)(iv) of the Policy.

In addition, UDRP panels have found that a respondent’s redirection of the disputed domain name to the complainant’s website can establish bad faith insofar as the respondent retains control over the redirection thus creating a real or implied ongoing threat to the complainant. [WIPO Overview 3.0](#), section 3.1.4.

The disputed domain name precisely identifies the Complainant without the Complainant being in control of it. In view of the Panel, as long as the disputed domain name remains in the hands of the Respondent, it represents an ongoing abusive threat to the Complainant.

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 <parthenon-ey.com> be transferred to the Complainant.

*/Zoltán Takács/*

**Zoltán Takács**

Sole Panelist

Date: May 21, 2024