

ADMINISTRATIVE PANEL DECISION

The Raine Group LLC v. Swensom Williams
Case No. D2024-0959

1. The Parties

Complainant is The Raine Group LLC, United States of America (“United States”), represented by Fross Zelnick Lehrman & Zissu, PC, United States.

Respondent is Swensom Williams, United States.

2. The Domain Name and Registrar

The disputed domain name <raineinvestment.com> (the “Domain Name”) is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 4, 2024. On March 5, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On March 7, 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 (Privacy Protect, LLC) and contact information in the Complaint. The Center sent an email to Complainant on the same date providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on March 8, 2024. On March 9, 2024, the Center sent an email to Complainant indicating of a formal deficiency and inviting Complainant to submit an amendment to the Complaint. On March 11, 2024, Complainant filed an amended Complaint.

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 March 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 1, 2024. Respondent sent emails to the Center on March 9, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on April 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

According to the Complaint:

“Complainant is an investment firm, specifically a leading global technology, media, and telecommunications (“TMT”) merchant bank with a focus on both advisory and principal investment in the global TMT ecosystem. Founded in 2009, Raine has advised on some of the largest, most impactful, and most cutting-edge transactions in the history of TMT and has leveraged that same breadth and depth of intelligence to be an active, strategic value-add growth, and venture capital investor. Based in New York, Raine has offices around the world, including in San Francisco, Los Angeles, London, Paris, Mumbai, Shanghai, Hong Kong, [China], and Singapore.”

Complainant asserts that it has billions of dollars of assets under management.

Complainant owns the domain name <raine.com> and operates a commercial website via that domain name. This website features information about Complainant’s extensive activities in the field of investing and financial services.

Complainant owns various registered trademarks incorporating “Raine” alone or “Raine” with other terms, including United States Patent and Trademark Office Reg. No. 4,758,844 for RAINE, registered on June 23, 2015, in connection with, among other things, “merchant banking and investment banking services”, with a December 31, 2009, date of first use in commerce.

The Domain Name was registered on October 1, 2023. According to Complainant:

“The Domain Name is currently being used in connection with a website for a company claiming to operate under the name, Raine Investments Limited, which purports to offer cryptocurrency trading and investment advice and services. [...] In fact, upon information and belief, the website at the Domain Name appears to be promoting what could best be described as a multi-level-marketing scheme or possibly a thinly disguised pyramid scam. Respondent advertises ‘risk-free’ investments with extreme yields promised on investments, namely, from 4% to as much as 5.5% per day. In the volatile cryptocurrency markets, such promises are not practical and certainly not sustainable. Respondent offers additional returns (including 10% bonuses) and a percentage of purchases made by referrals, all of which suggest a pyramid scheme.”

Annexed to the Complaint are screenshots of the website to which the Domain Name previously resolved. Currently, the Domain Name resolves to an error page.

5. Parties’ Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply to Complainant’s allegations or arguments. Respondent’s entire reply to the Complaint is contained in two March 9, 2024 email communications sent to the Center, stating:

“Good day Sir.. I am appealing on behalf of my domain name which has been suspended raineinvestment.com Please I am begging to unsuspend the said domain raineinvestment.com so that It can start functioning back. I can remove any content if there may be a need to do so.”

[...]

“Please! Please!! and Please!!! Help me unsuspend the said domain raineinvestment.com.... I am ready to remove any trademark related articles from the website. Please give me the last chance. I never got your message on 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.

A. Identical or Confusingly Similar

The Panel finds that Complainant holds rights in the trademark RAINE through registration and use demonstrated in the record. The Panel finds that the Domain Name is confusingly similar to the RAINE mark. The Domain Name entirely incorporates the RAINE mark, and adds the word “investment”, which does not prevent a finding of confusing similarity under the first element. The RAINE mark remains clearly recognizable within the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name. It is plausibly alleged, and not disputed, that Respondent has no relationship with, or authorization from, Complainant to use the RAINE mark in a domain name or otherwise. The Panel also notes that, while Respondent submitted two emails to the Center in connection with this proceeding, Respondent has not come forward to dispute Complainant’s serious allegations, or otherwise articulate some bona fide basis for registering the Domain Name. On the undisputed record, the Panel concludes that Respondent targeted Complainant’s mark to impersonate Complainant and lure unwitting consumers seeking Complainant’s website and services. Such a use of the Domain Name is not legitimate. .

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, “in particular but without limitation”, are evidence of the registration and use of the Domain Name in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent’s website or other online location, by creating a likelihood of confusion with Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of Respondent’s website or location or of a product or service on Respondent’s website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. The Panel incorporates here its discussion above in the “Rights or Legitimate Interests” section. The Panel finds, on this undisputed record and on a balance of probabilities, that Respondent had Complainant and its mark in mind when registering the Domain Name. This finding is supported by the fact that both Parties purport to operate in the financial services field within the same geographic area, namely the United States. It is further supported by Respondent’s silence in the face of clear and plausible allegations (the plausibility being underscored in part by the lofty profits virtually promised to Respondent’s prospective clients) that Respondent is operating a dubious commercial venture. A legitimate business ordinarily would be expected to rebut such allegations in no uncertain terms, and make some effort to prove one’s legitimacy.

As discussed above, the Panel concludes that Respondent targeted Complainant’s mark in order to impersonate Complainant for commercial gain. This use of the Domain Name falls within the above-quoted Policy paragraph 4(b)(iv), and hence constitutes bad faith registration and use of the Domain Name.

Complainant has established Policy paragraph 4(a)(iii).

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 Domain Name <raineinvestment.com> be transferred to Complainant.

/Robert A. Badgley/
Robert A. Badgley
Sole Panelist
Date: April 10, 2024