

ADMINISTRATIVE PANEL DECISION

The Depository Trust & Clearing Corporation v. Frank Azzurro Case No. D2024-1011

1. The Parties

The Complainant is The Depository Trust & Clearing Corporation, United States of America (“United States”), represented by Day Pitney LLP, United States.

The Respondent is Frank Azzurro, United States.

2. The Domain Name and Registrar

The disputed domain name <dtcccrypto.com> 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 March 7, 2024. On March 7, 2024, the Center transmitted by email to the Registrars DropCatch.com LLC and GoDaddy.com, LLC a request for registrar verification in connection with the disputed domain name and the domain name <dtccxrp.com>. On March 7, 2024, the Registrars DropCatch.com LLC and GoDaddy.com, LLC transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name and the other 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 March 12, 2024, with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrars DropCatch.com LLC and GoDaddy.com, LLC, requesting the Complainant to either file separate complaint(s) for the disputed domain name <dtcccrypto.com> and the domain name <dtccxrp.com>, or alternatively to demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. On March 15, 2024, the Complainant filed an amended Complaint and a request to withdraw the domain name <dtccxrp.com> from the Complaint. The partial withdrawal was duly notified on March 18, 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 March 19, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 8, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on April 9, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on April 16, 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 a corporation established under the laws of the State of New York, United States and headquartered in Jersey City, New Jersey, United States. It is privately owned by leading banks and security brokerage firms. The Complainant was formed in 1999 as the successor to the Depository Trust Corporation (DTC) that was established in 1976 to provide post-trade clearing, settlement, and institutional trade processing services for stock markets and the global financial community. The Complainant operates a website (the "Complainant's website") at "www.dtcc.com", with links to several social media platforms. The Complainant processes over 100 million financial transactions daily and provides post-trade services to thousands of broker/dealers, banks, and asset managers worldwide, all under the trademark DTCC.

The Complainant holds numerous trademark registrations in the United States and other jurisdictions for DTCC as standard characters or as stylized letters. These include the following:

Mark	Jurisdiction	Registration Number	Registration Date	Goods or Services
DTCC (standard characters)	United States	5309424	October 17, 2017	Computer software used for financial transactions in the fields of securities trade processing and trade management; Clearing, reconciling, and processing financial transactions; Financial transaction processing services; Financial clearing houses; Financial transaction services; etc.. International Classes 9, 35, 36, 38, 41, and 42.
DTCC (stylized letters)	United States	5309457	October 17, 2017	Computer software used for financial transactions in the fields of securities trade processing and trade management; Clearing, reconciling, and processing financial transactions; Financial transaction processing services; Financial clearing houses; Financial transaction services; etc.. International Classes 9, 35, 36, 38, 41, and 42.
DTCC (word)	European Union	016190035	August 9, 2017	Computer software used for financial transactions in the fields of securities trade

				processing and trade management; Business information services; Financial transaction processing services; Financial clearing houses; etc.; International Classes 9, 35, 36, 38, 41, and 42
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In late 2023, the Complainant publicly announced its acquisition of a digital asset business and plans to accelerate the development of its enterprise digital asset platform using blockchain technology for post-trade market services, both within its existing products and services and for new, blockchain-based offerings. The record includes an article from “FinTech Futures” dated December 12, 2023, reporting on this event under the title, “DTCC completes acquisition of Securrency, rebrands business as DTCC Digital Assets”. The article referred to an initial announcement in October 2023.

The Registrar reports that the disputed domain name was created on January 2, 2024, and registered in the name of a domain privacy service. After receiving notice of the Complaint in this proceeding, the Registrar identified the underlying registrant as the Respondent Frank Azzurro, giving a postal address in the State of Nevada, United States and a Yahoo email address as contact details. The Respondent has not replied to correspondence from the Complainant or the Center.

At the time of this Decision, the disputed domain name resolves only to a landing page with a “Coming Soon” message. However, the Complaint attaches screenshots showing that the disputed domain name formerly redirected to a website at <wrcxrp.com> headed “XRP” (the “XRP website”), which shows that it is associated with multiple domain names. XRP is the native crypto token (a digital asset) of the Ripple network, a settlement and exchange system operated by Ripple Labs Inc. (“Ripple”), which operates a website at “www.ripple.com”. The XRP website has the tagline, “There are no crypto rules”. It consists of comments, links, and videos about the XRP cryptocurrency and the regulation of cryptocurrencies. The site includes this disclaimer:

“This website is for information purposes and is NOT recommending anyone to invest any money
All information is speculative and very opinionated
Do your own research”.

The copyright notice is in the name of “World Reserve Currency XRP”, which is not further identified and does not appear to be an actual legal entity.

The XRP website included multiple links to the Ripple website and a YouTube channel and also vague references to the Complainant such as these:

“Depository Trust Clearing Corporation
DON'T BE SHOCKED
WHEN THEY ALL USE XRP
DTCC CRYPTO
dtccCRYPTO.com”

“DTCC Uses Escrow!”

“HOLY SH*T! DTCC Is Looking For A Trusted Third ...”

The Complainant asserts “on information and belief” that the XRP website and linked YouTube channel are under the Respondent’s control. The Complainant has not offered supporting evidence for this assertion, however.¹

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 its DTCC mark, which is entirely incorporated in the disputed domain name. The Complainant denies any association with the Respondent and asserts that the Respondent uses the Complainant’s mark in the disputed domain name without permission and creates a misleading impression of affiliation, especially as the Complainant itself is now involved in providing services related to digital (“crypto”) assets. The Complainant contends that the Respondent is not known by a corresponding name, does not use the disputed domain name in connection with a bona fide commercial offering, and cannot claim a legitimate fair use defense for a “criticism” site, because the disputed domain name appears to be associated with the Complainant’s digital services and creates an impermissible risk of user confusion.

As such, according to the Complainant, there is “no conceivable non-infringing use” of the disputed domain name, and its registration and use should be deemed to be in bad faith. The Complainant argues that the disputed domain name was registered and used to misdirect Internet users to the XRP website and YouTube channel for commercial gain. The Complainant contends as well that the Respondent’s failure to accurately identify itself on the XRP site and YouTube channel indicates bad faith and the possibility that the disputed domain name could be used for other illicit purposes such as fraud or phishing schemes in connection with emails using the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that a complainant must demonstrate each of the following:

- (i) the domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights;
- (ii) and the respondent has no rights or legitimate interests in respect of the domain name;
- (iii) and the domain name has been registered and is being used in bad faith.

Under paragraph 15(a) of the Rules, “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

¹The Panel observes that statements “on information and belief” are typical in litigation in jurisdictions following rules of “notice pleading”, where the assertions can be more fully developed and tested during discovery or trial. The phrase is meaningless, however, in the context of a UDRP proceeding, where the parties submit a single complaint or response accompanied by supporting documents.

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 (the registered DTCC marks, here) for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the DTCC 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, "crypto") may bear on assessment of the second and third elements, the Panel finds the addition of such a term 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. The disputed domain name redirected to the XRP website, which in turn linked to a YouTube channel and listed multiple other domain names. The record does not establish which, if any, of these sites were controlled by the Respondent. There is no evidence on this record that the Respondent has been known by a name corresponding to the disputed domain name or has engaged in a bona fide business using such a name.

Moreover, any potential claim to be making legitimate noncommercial fair use of the disputed domain name would be problematic, and the Respondent has not come forward to advance such a claim. The XRP website and linked YouTube channel largely promote the use of XRP, a particular cryptocurrency established by the commercial company Ripple, only tangentially mentioning that the Complainant might eventually process settlements or act as a custodian for that digital currency. The content of the XRP site and linked YouTube channel can hardly be characterized as either "criticism" or "fan" sites relating prominently to the Complainant; they are focused instead on Ripple's XRP and issues with regulating cryptocurrency. This cannot be considered a legitimate, nominative fair use of the Complainant's mark, particularly given that the

disputed domain name impersonates the mark and does not by its nature dissociate itself from the trademark holder (as in “sucks” or “fan” cases). See [WIPO Overview 3.0](#), section 2.6.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

As an earlier panel recognized, the DTCC mark is well-established, widely known, and is an invented term distinctive for the Complainant’s corresponding services. See *The Depository Trust and Clearing Corporation v. Name Redacted*, WIPO Case No. [D2018-1884](#). The Respondent redirected the disputed domain name to the XRP website commenting on digital assets, a financial services sector in which the Complainant has recently become active, specifically mentioning the Complainant. Thus, it may safely be concluded that the Respondent selected the disputed domain name with reference to the Complainant’s mark.

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes non-exclusive 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.

Here, the Panel finds the presence of one of these instances, misdirection of Internet users for commercial gain (Policy paragraph 4(b)). The disputed domain name is inherently misleading as to source or affiliation, and the XRP website does not identify the actual operator or relationship with the Complainant. The disclaimer on the website states that it is solely informational, but much of the content promotes the XRP cryptocurrency, which was created by Ripple and is available in the marketplace through a variety of commercial brokers. As discussed above, the Panel found that this use of the disputed domain name could not qualify as a legitimate noncommercial fair use. While the XRP website includes much opinion, it also tends to promote commercial products and services for the XRP cryptocurrency – through a domain name which appropriates the Complainant’s mark, including those of Ripple, a digital exchange and currency services company in a field that the Complainant has recently entered. The Policy does not require evidence that the Respondent profits directly from such misdirection, only that there was an intentional attempt to attract Internet users to another site “for commercial gain” by creating a likelihood of confusion with the Complainant’s mark, which was the case here. As the Complainant observes, the disputed domain name is inherently confusing as to source or affiliation.

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 <dtcccrypto.com> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: April 30, 2024