

ADMINISTRATIVE PANEL DECISION

Golub Capital v. janet booth, Michael D Amico and Clarence Mankin
Case No. D2024-2014

1. The Parties

The Complainant is Golub Capital, United States of America, represented by ZeroFox, United States of America (“United States”).

The Respondents are janet booth, Michael D Amico, and Clarence Mankin, United States.

2. The Domain Names and Registrar

The disputed domain names <golubcapitall.com> and <golubcapitals.com> are registered with NameSilo, LLC. The disputed domain name <golubscapital.com> is registered with Hostinger Operations, UAB. These entities shall be referred to herein as the “Registrars”.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 14, 2024. On May 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On May 21, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondents (PrivacyGuardian.org llc) and contact information in the Complaint.

The Center sent an email communication to the Complainant on May 23, 2024 with the registrant and contact information of nominally multiple underlying registrants revealed by the Registrar(s), requesting the Complainant to either file separate complaint(s) for the disputed domain names associated with different underlying registrants or alternatively, demonstrate that the underlying registrants are in fact the same entity and/or that all domain names are under common control. The Complainant filed an amendment to the Complaint on June 19, 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 Respondents of the Complaint, and the proceedings commenced on August 9, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2024. There were no email communications from the Respondents.

The Center appointed Evan D. Brown as the sole panelist in this matter on September 11, 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 in the business of credit asset management. It owns the mark GOLUB CAPITAL and enjoys the benefit of registration of that mark in the United States (Reg. No. 4,944,759, registered on April 26, 2016).

The disputed domain names were registered on the following dates:

- <golubscapital.com> - January 15, 2024
- <golubcapitals.com> - February 27, 2024
- <golubcapital.com> - February 29, 2024

As of the time of the filing of the Complaint, the disputed domain names did not resolve to any active web page, and the Complainant asserts that there is no evidence or archive of any content being hosted in the past. The Complainant also asserts that each of the disputed domain names has an active MX record associated with them, which suggests preparations for or the intent to engage in email communication under the guise of the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are identical or confusingly similar to the Complainant's trademark; that the Respondents have no rights or legitimate interests in respect of the disputed domain names; and that the disputed domain names were registered and are being used in bad faith.

B. Respondent

The Respondents did not respond to the Complainant's contentions.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied: (i) the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights, (ii) the Respondents have no rights or legitimate interests in respect of the disputed domain names, and (iii) the disputed domain names have been registered and are being used in bad faith. The Panel finds that all three of these elements have been met in this case.

A. Preliminary Issue: Consolidation of Multiple Respondents

There are three named Respondents (three underlying registrants disclosed by the Registrars) – one for each of the disputed domain names. The Complainant requests that all three be consolidated into this matter. Consolidation is proper, so the Complainant's request for consolidation is granted.

Paragraph 10(e) of the Rules states that a “[p]anel shall decide a request by a Party to consolidate multiple domain name disputes in accordance with the Policy and these Rules”. Paragraph 10(c) of the Rules provides, in relevant part, that “the [p]anel shall ensure that the administrative proceeding takes place with due expedition”. Section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”) summarizes the consensus view of UDRP panels on the consolidation of multiple respondents and provides that where a complaint is filed against multiple respondents, panels consider whether the domain names or corresponding websites are subject to common control, and whether the consolidation would be fair and equitable to all parties.

The record indicates the disputed domain names are under common control. The following facts support this conclusion:

- The disputed domain names were all registered within a week of each other.
- The disputed domain names all appear to target the same trademark and use the same or similar typosquatting strategy.
- The disputed domains all use privacy services that obfuscate the true registration details of the particular domain name owner.

The Respondents have not presented any arguments as to why consolidation would be unfair or inequitable. Accordingly, conditions for proper consolidation of the disputed domain names into one matter are present here.

B. Identical or Confusingly Similar

This first element functions primarily as a standing requirement. [WIPO Overview 3.0](#), section 1.7. 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. *Id.* This element requires the Panel to consider two issues: first, whether the Complainant has rights in a relevant mark; and second, whether the disputed domain name is identical or confusingly similar to that mark.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. See *Advance Magazine Publishers Inc., Les Publications Conde Nast S.A. v. Voguechen*, WIPO Case No. [D2014-0657](#). The Complainant has demonstrated its rights in the GOLUB CAPITAL mark by providing evidence of its trademark registration. See [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain names are confusingly similar to the GOLUB CAPITAL mark. Each of the disputed domain names contains the entirety of the GOLUB CAPITAL mark, but with just one letter inserted – in the style of garden variety typosquatting.

The Panel finds that the Complainant has established this first element under the Policy.

C. Rights or Legitimate Interests

The Panel evaluates this element of the Policy by first looking to see whether the Complainant has made a prima facie showing that the Respondents lack rights or legitimate interests in respect of the disputed domain names. If the Complainant makes that showing, the burden of production of demonstrating rights or legitimate interests shifts to the Respondents (with the burden of proof always remaining with the Complainant).

On this point, the Complainant asserts, among other things, that: (1) the Respondents have not used or prepared to use the disputed domain names for any bona fide offering of goods or services, (2) the Respondents have not made any non-commercial or fair use of the disputed domain names, and (3) the Complainant has not authorized, licensed or otherwise permitted the Respondents to use the GOLUB CAPITAL mark within any domain name.

The Panel finds that the Complainant has made the required prima facie showing. The Respondent has not presented evidence to overcome this prima facie showing. And nothing in the record otherwise tilts the balance in the Respondent's favor.

Accordingly, the Panel finds that the Complainant has established this second element under the Policy.

D. Registered and Used in Bad Faith

The Policy requires a complainant to establish that the disputed domain name was registered and is being used in bad faith. The Policy describes several non-exhaustive circumstances demonstrating a respondent's bad faith registration and use. Under paragraph 4(b)(iv) of the Policy, a panel may find bad faith when a respondent "[uses] the domain name to intentionally attempt 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 a product or service on [the respondent's] website or location".

In the circumstances of this case, where the Complainant's mark has been registered with the United States Patent and Trademark Office, the Panel finds it likely that the Respondents were aware of the mark when it registered the disputed domain names. In the circumstances of this case, without the benefit of any explanation whatsoever from the Respondents as to a possible good faith use of the disputed domain names, such a showing is sufficient to establish bad faith registration of the disputed domain name. See *Decathlon v. Diana Reyes*, WIPO Case No. [D2022-3027](#).

The circumstances also demonstrate bad faith use of the disputed domain name. From the inception of the UDRP, panelists have found that the non-use of a domain name (including a blank page) would not prevent a finding of bad faith under the doctrine of passive holding (see section 3.3 of the [WIPO Overview 3.0](#)). The Respondents' bad faith is evidenced by its establishment of MX records with the disputed domain names, suggesting the disputed domain names could be used to send fraudulent email. See *Carrier Corporation v. DNS Admin, Domain Privacy LTD*, WIPO Case No. [D2021-3728](#) ("if the Respondent is using the disputed domain name to send fraudulent emails – which the MX records suggest is at least a possibility – then bad faith use is further obvious").

The Complainant has established this third UDRP element.

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 names <golubcapitall.com>, <golubcapitals.com> and <golubscapital.com> be transferred to the Complainant.

/Evan D. Brown/

Evan D. Brown

Sole Panelist

Date: September 27, 2024