

ADMINISTRATIVE PANEL DECISION

August Van Zile / Sokaogon Finance Inc. v. Web Solution
Case No. D2024-2473

1. The Parties

Complainant is August Van Zile / Sokaogon Finance Inc., United States of America (“United States”), represented by IntegriShield, United States.

Respondent is Web Solution, United States.

2. The Domain Names and Registrar

The disputed domain names <bluepinedlending.com>, <greenpinedlending.com>, <redpinedlending.com> and <whitepinedlending.com> (the “Domain Names”) are registered with URL Solutions, Inc. (the “Registrar”).

3. Procedural History

Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 18, 2024. On June 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On the same day, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Names, which differed from the named Respondent (Shinjiru, URL SOLUTIONS INC., URL Solutions, Inc.) and contact information in the Complaint. The Center sent an email to Complainant on June 19, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed the first amended Complaint on June 28, 2024 and filed the second amended Complaint on July 12, 2024.

The Center verified that the Complaint together with the amended Complaints 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 July 12, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on August 2, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on August 7, 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 Complainant, it registered the domain name <whitepinelending.com> on December 19, 2011, and since that time Complainant has used that domain name to promote and operate an online lending business. According to Complainant, it has established unregistered, i.e., common law trademark rights in WHITE PINE LENDING.

The Domain Names were all registered on May 5, 2022. The Domain Names currently do not resolve to a website, but for a time they resolved to four separate websites nearly identical in content and appearance. The only difference among Respondent's four websites was that each prominently featured the Domain Name corresponding to the site. Otherwise, the websites were identical, and they all purported to offer lending services. In addition, Respondent's websites all borrowed the look and feel of Complainant's website, including the prominent photo of a forest of tall pine trees with the sun shining through the branches.

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 Names.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to each of the Domain Names:

- (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

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 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 Panel finds that Complainant has established unregistered rights in the mark WHITE PINE LENDING through use demonstrated, albeit very sparingly, in the record. In addition, the Panel notes that the fact that Respondent is shown to have been targeting Complainant's mark (e.g., based on the manner in which the related websites are used) supports that Complainant's mark has achieved significance as a source identifier. [WIPO Overview 3.0](#), section 1.3. The Panel also finds that each of the four Domain Names is

confusingly similar to the WHITE PINE LENDING mark. In each of the Domain Names, the PINE LENDING portion of the mark is incorporated, and the only difference is that the Domain Names add the letter “d” between the words “pine” and “lending”. In the Panel’s opinion, this minor difference does not overcome the fact that Complainant’s mark is recognizable within the Domain Names.

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

B. Rights or Legitimate Interests

For each of the Domain Names, 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.

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 often primarily within the knowledge or control of the respondent. Thus, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production 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.

The Panel concludes that Respondent lacks rights or legitimate interests in connection with the Domain Names. Respondent has not come forward in this proceeding to refute any of the plausible allegations made by Complainant, or challenge any of the evidence put forth by Complainant. The Panel concludes, from this undisputed record, that Respondent targeted Complainant’s mark to siphon off customers seeking the same type of lending services as Complainant offers. If Respondent were engaged in legitimate activity vis-à-vis these Domain Names, the Panel would have expected Respondent to mount a defense and try to prove his bona fides. In sum, on the record here, Respondent’s conduct does not invest him with rights or legitimate interests in respect of the Domain Names.

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

C. Registered and Used in Bad Faith

For each of the Domain Names, 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 registered and used the Domain Names in bad faith under the Policy. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section. On this record, the Panel finds it more likely than not that Respondent targeted Complainant's mark when registering the Domain Names, and has used most of the Domain Names for illegitimate commercial gain by seeking to imitate Complainant's website and divert Internet traffic by free-riding on Complainant's mark. This constitutes bad faith registration and use within the meaning of the above-quoted Policy paragraph 4(b)(iv).

In addition, the Panel finds Respondent in bad faith within the meaning of the above-quoted Policy paragraph 4(b)(ii), as Respondent has engaged in a pattern of preclusive Domain Name registrations.

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 Names <bluepinedlending.com>, <greenpinedlending.com>, <redpinedlending.com>, and <whitepinedlending.com> be cancelled.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: August 21, 2024