

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Phyllis Johnson
Case No. D2024-2978

1. The Parties

Complainant is LPL Financial LLC, United States of America (“United States”), represented by Hogan Lovells (Paris) LLP, France.

Respondent is Phyllis Johnson, United States.

2. The Domain Names and Registrar

The disputed domain names <lplkr.co>, <lplkr.com> and <lplkr.pro> (the “Domain Names”) are registered with Amazon Registrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 23, 2024. On July 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On July 27, 2024, 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 (Identity Protection Service and Redacted for Privacy) and contact information in the Complaint. The Center sent an email to Complainant on July 31, 2024, 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 August 5, 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 Respondent of the Complaint, and the proceedings commenced on August 8, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 4, 2024.

The Center appointed Robert A. Badgley as the sole panelist in this matter on October 15, 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:

“The Complainant, LPL Financial LLC, was founded in 1989 through the merger of two brokerage firms – Linsco and Private Ledger. LPL is a leader in the retail financial advice market, and is considered the largest independent broker-dealer in the United States. The Complainant serves independent financial advisors and financial institutions, providing them with the technology, research, clearing and compliance services, and practice management programs they need to create and grow their practices. LPL enables them to provide objective guidance to millions of families throughout the United States seeking wealth management, retirement planning, financial planning and asset management solutions.”

“Since 2010, LPL has been publicly traded on the NASDAQ under ‘LPLA’. Today, LPL provides an integrated platform of brokerage and investment advisory services to more than 22,000 including advisors at approximately 1,100 institution-based investment programs and at approximately 570 registered investment advisor (RIA) firms, nationwide managing over USD 1.4 trillion in advisory and brokerage assets. The Complainant has over 8,400 employees, with its primary offices in San Diego, California; Fort Mill, South Carolina; Boston, Massachusetts and Austin, Texas. In the first quarter of 2024, LPL's gross profit reached over USD 1,066 million, with a net income of over USD 289 million.”

Complainant's social media presence includes more than 22,000 followers on Facebook and 25,000 followers on X.

Since 1994, Complainant has owned the domain name <lpl.com> and has used that domain name to promote its business.

Complainant holds various trademark registrations for the mark LPL, including United States Patent and Trademark Office Reg. No. 1801076, registered on October 26, 1993 in connection with “financial management services” with a 1992 first use in commerce.

The Domain Names <lplkr.com> and <lplkr.co> were registered on May 22, 2024, and the Domain Name <lplkr.pro> was registered on June 3, 2024. At the time the Complaint in this proceeding was filed, the Domain Name <lplkr.com> resolved to what Complainant describes as “a cloned version of the Complainant's official website.” The other Domain Names resolved to an inactive website.

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. According to Complainant, “Respondent, having no relationship with the Complainant or authorization to make use of its trademarks in a domain name or otherwise, registered the Domain Names targeting the Complainant's rights with a view to engaging in activity aimed at misleading Internet users, in bad faith.”

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 Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and
- (iii) the Domain Names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the mark LPL through registration and use demonstrated in the record. The Panel also finds that the Domain Names are confusingly similar to that mark. Notwithstanding the additional letters “kr,” the Panel finds the LPL mark to be 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 Names, 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 Names or a name corresponding to the Domain Names 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 Names, 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 Names, 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 connection with the Domain Names. Respondent has not come forward to deny any of the plausible allegations or dispute any of the evidence presented by Complainant. Nor has Respondent tried to articulate, and support with evidence, some bona fide basis for registering the Domain Names. The fact that one of the Domain Names resolves to an exact replica of Complainant’s own website indicates that Respondent was clearly motivated to impersonate Complainant and mislead Internet users into believing that Respondent’s website was affiliated with Complainant. The Panel cannot fathom any possible legitimate reason for doing this, and, again, Respondent has not offered any viable explanation for its conduct vis-à-vis the Domain Names. In short, on this record, Respondent’s conduct does not give rise to rights or legitimate interests under the Policy.

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 Names in “bad faith”:

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Names primarily for the purpose of selling, renting, or otherwise transferring the Domain Names 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 Names; or

- (ii) that Respondent has registered the Domain Names 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 Names primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the Domain Names, 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 that Respondent's conduct regarding the Domain Name <lplkr.com> – that Domain Name resolves to a website identical to Complainant's own website – runs afoul of the above-quoted Policy paragraph 4(b)(iv).

The Panel also finds Respondent to have engaged in bad faith registration and use of the other Domain Names, which resolved to inactive sites. In this vein, Complainant argues:

"[T]he presence of the Domain Names and in the hands of the Respondent represents an abusive threat hanging over the head of the Complainant (i.e., an abuse capable of being triggered by the Respondent at any time). There is clear potential for the Domain Names to be used in a manner that could easily mislead the Complainant's clients into disclosing their confidential account information, which may in turn be used to commit further acts of fraud. Therefore the Complainant submits that the Respondent's ownership of the Domain Names amounts to a continuing abusive use."

The Panel accepts this reasoning especially given Respondent's use of the Domain Name <lplkr.com>.

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 <lplkr.co> <lplkr.com>, and <lplkr.pro> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: October 22, 2024