

ADMINISTRATIVE PANEL DECISION

Silver Lake Management L.L.C. v. Host Master, 1337 Services LLC
Case No. D2022-2746

1. The Parties

The Complainant is Silver Lake Management L.L.C., United States of America ("United States"), represented by Simpson Thacher & Bartlett, United States.

The Respondent is Host Master, 1337 Services LLC, Saint Kitts and Nevis.

2. The Domain Name and Registrar

The disputed domain name <silverlake.group> (the "Disputed Domain Name") is registered with Tucows Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 26, 2022. On July 27, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 27, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on August 2, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on August 4, 2022.

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 Respondent of the Complaint, and the proceedings commenced on August 9, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 29, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on September 1, 2022.

The Center appointed Flip Jan Claude Petillion as the sole panelist in this matter on September 7, 2022. 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, Silver Lake Management L.L.C., is a global technology investment firm founded in 1999 and based in California with additional offices in New York, London, Hong Kong, China, and Singapore.

The Complainant holds various registered trademarks consisting of or including the terms "SILVER LAKE", including the following:

- SILVER LAKE, word mark registered in the United States under No. 2466275 on July 3, 2001 in class 36.

The Disputed Domain Name was registered on January 2, 2022. According to the Complainant's evidence, the Disputed Domain Name appeared to resolve to a website offering services similar to the Complainant's services. The Panel observes that the Disputed Domain Name currently resolves to an error page.

5. Parties' Contentions

A. Complainant

The Complainant considers the Disputed Domain Name to be confusingly similar to a trademark in which it claims to have rights.

The Complainant further claims that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name. According to the Complainant, the Respondent is not making any *bona fide* offering of goods or services through the Disputed Domain Name as the website linked to the Disputed Domain Name contains no information about the company or entity offering the services. The Complainant is also not aware of any preparations to a *bona fide* offering of goods or services. According to the Complainant, the Respondent is in no way affiliated with the Complainant, nor has the Respondent been authorized by the Complainant to use the Complainant's trademark. Also, according to the Complainant, it is unlikely that the Respondent is commonly known by the Disputed Domain Name. The Complainant claims that the Respondent's only plausible motivation appears to be illegitimate.

Finally, the Complainant claims that the Disputed Domain Name was registered and is being used in bad faith. According to the Complainant, the Respondent must have known of the Complainant and its SILVER LAKE mark when it registered the confusingly similar Disputed Domain Name. The Complainant contends that the Respondent intentionally attempted to attract Internet users by creating confusion with the Complainant's mark.

B. Respondent

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

6. Discussion and Findings

Paragraph 15 of the Rules provides that the Panel is to decide the Complaint on the basis of the statements and documents submitted in accordance with the Policy, the Rules, and any rules and principles of law that it deems applicable.

The onus is on the Complainant to make out his case and it is apparent, both from the terms of the Policy and the decisions of past UDRP panels, that the Complainant must show that all three elements set out in paragraph 4(a) of the Policy have been established before any order can be made to transfer the Disputed Domain Name. The standard of proof is the balance of probabilities.

Thus, for the Complainant to succeed it must prove, within the meaning of paragraph 4(a) of the Policy, that:

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

The Panel will therefore deal with each of these requirements.

A. Identical or Confusingly Similar

To prove this element, the Complainant must first establish that there is a trademark or service mark in which it has rights. The Complainant has clearly established that there is a trademark in which it has rights. The Complainant's SILVER LAKE trademark has been registered and used in connection to its investment services.

The Disputed Domain Name is virtually identical to the Complainant's trademark, as it simply leaves out the space between the two terms composing the Complainant's trademark. It is well established that the generic Top-Level Domain ("gTLD"), here ".group", may be disregarded when considering whether the Disputed Domain Name is confusingly similar to a trademark in which the Complainant has rights (see section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

In light of the above, the Panel considers the Disputed Domain Name to be identical to the Complainant's SILVER LAKE trademark.

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the Disputed Domain Name.

As established by previous UDRP panels, it is sufficient for the Complainant to make a *prima facie* showing that the Respondent has no rights or legitimate interests in the Disputed Domain Name in order to place the burden of production on the Respondent (see section 2.1 of the [WIPO Overview 3.0](#)).

The Panel notes that the Respondent has not apparently been commonly known by the Disputed Domain Name and that the Respondent does not seem to have acquired trademark or service mark rights. According to the information provided by the Registrar, the Respondent is "Host Master" from the organization "1337 Services LLC". The Respondent's use and registration of the Disputed Domain Name was not authorized by the Complainant. There are no indications that a connection between the Complainant and the Respondent exists or existed.

Where a domain name is identical to a complainant's trademark, UDRP panels have largely held that it carries a high risk of implied affiliation (see section 2.5.1 of the [WIPO Overview 3.0](#)). The Disputed Domain Name incorporates the Complainant's SILVER LAKE mark in its entirety, simply leaving out the space between the two terms. In the Panel's view, the combination with the gTLD ".group" even increases the risk for confusion as it may refer to the Complainant and its affiliates. Therefore, the Panel finds that the Disputed Domain Name cannot constitute *bona fide* or even fair use.

Beyond looking at the domain name and the nature of any additional terms appended to it, UDRP panels assess whether the overall facts and circumstances of the case, such as the content of the website linked to the disputed domain name and the absence of a response, support a fair use or not (see sections 2.5.2 and 2.5.3 of the [WIPO Overview 3.0](#)).

According to the Complainant's evidence, the Panel observes that the Disputed Domain Name referred to a website which appeared to offer services identical or at least similar to the Complainant's services, namely investment services in the technology sector. In addition, the Panel observes that this website mentioned the Complainant's word mark SILVER LAKE combined with the words "Equity Group", and did not appear to contain any information about the company or entity offering the services. In the Panel's view, this does not amount to a legitimate noncommercial or fair use of the Disputed Domain Name. Moreover, the Panel finds that this use is not a *bona fide* offering of goods or services. The Disputed Domain Name currently resolves to an inactive page.

The Respondent had the opportunity to demonstrate its rights or legitimate interests but did not do so. In the absence of a Response from the Respondent, the *prima facie* case established by the Complainant has not been rebutted.

Therefore, the Panel finds that the Complainant has established that the Respondent has no rights or legitimate interests in the Disputed Domain Name. In light of the above, the Complainant succeeds on the second element of the Policy.

C. Registered and Used in Bad Faith

The Complainant must prove on the balance of probabilities both that the Disputed Domain Name was registered in bad faith and that it is being used in bad faith (see section 4.2 of the [WIPO Overview 3.0](#) and, for example, *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#) and *Control Techniques Limited v. Lektronix Ltd*, WIPO Case No. [D2006-1052](#)).

Paragraph 4(b) of the Policy provides a non-exclusive list of factors, any one of which may demonstrate bad faith. Among these factors demonstrating bad faith registration and use is the use of a domain name to intentionally attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on the website or location.

In the present case, the Panel finds that it is very unlikely that the Respondent was unaware of the Complainant and its trademark rights when it registered the Disputed Domain Name. The Disputed Domain Name matches the Complainant's trademark in its entirety, and the website linked to the Disputed Domain Name appeared to offer services identical or at least similar to the Complainant's services. In the Panel's view, the Respondent's awareness of the Complainant's trademark rights at the time of the domain name registration suggests bad faith (see *Red Bull GmbH v. Credit du Léman SA, Jean-Denis Deletraz*, WIPO Case No. [D2011-2209](#); *BellSouth Intellectual Property Corporation v. Serena, Axel*, WIPO Case No. [D2006-0007](#), where it was held that the respondent acted in bad faith when registering the disputed domain name, because widespread and long-standing advertising and marketing of goods and services under the trademarks in question, the inclusion of the entire trademark in the domain name, and the similarity of products implied by addition of a telecommunications services suffix ("voip") suggested knowledge of the complainant's rights in the trademarks).

The Respondent has used the Disputed Domain Name to resolve to a website, which appeared to offer services similar to the Complainant's services. This website included the Complainant's word mark and appeared to offer services of "a spin off from one of the world's largest private equity firms". Given the Complainant's reputation in that field, the Panel finds that this could be considered as a direct reference to the Complainant. In the Panel's view, the above circumstances indicate that the Respondent has intentionally attempted to attract Internet users to its website for commercial gain by creating a likelihood of confusion with the Complainant and its trademark.

The fact that the Disputed Domain Name currently resolves to an inactive page does not prevent a finding of bad faith.

Furthermore, by failing to respond to the Complaint, the Respondent did not take any initiative to contest the foregoing. Pursuant to paragraph 14 of the Rules, the Panel may draw the conclusions it considers appropriate.

Therefore, the Panel finds that, on the balance of probabilities, it is established that the Disputed Domain Name was registered and is being used in bad faith. In light of the above, the Complainant also succeeds on the third and last 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 <silverlake.group> be transferred to the Complainant.

/Flip Jan Claude Petillion/

Flip Jan Claude Petillion

Sole Panelist

Date: September 15, 2022