

ADMINISTRATIVE PANEL DECISION

CoinShares International Limited and Coinshares (Holdings) Limited v. erick younglion

Case No. D2022-4692

1. The Parties

The Complainants are CoinShares International Limited and Coinshares (Holdings) Limited, Jersey, represented by Demys Limited, United Kingdom.

The Respondent is erick younglion, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <coinshare.ltd> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 7, 2022. On December 8, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 8, 2022, the Registrar transmitted by email to the Center its verification disclosing registrant and contact information for the disputed domain name, which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 12, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainants filed an amended Complaint on December 13, 2022. On December 13, 2022, the Center received an email from the Respondent, inquiring about these proceedings.

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 December 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 8, 2023. The Respondent did not submit any formal response.

Accordingly, the Center notified the Parties with Commencement of Panel Appointment Process on January 11, 2023.

The Center appointed Richard C.K. van Oerle as the sole panelist in this matter on January 19, 2023. 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 First Complainant - CoinShares International Limited - is one of the largest digital asset investment and trading groups in Europe. It is a public limited liability company incorporated in St. Helier, Jersey, with further offices in London, Paris, and across the United States of America.

The Second Complainant – Coinshares (Holdings) Limited – is the Complainants' group's holding company, located in St. Helier, Jersey. It is the proprietor of registered trademarks for the terms COINSHARE and COINSHARES in the following jurisdictions:

- Sweden: word mark COINSHARE, registration no. 529121, registration date: January 12, 2016;
- United Kingdom: word mark COINSHARES, registration no. UK00003194005, registration date: January 20, 2017;
- Australia: word mark COINSHARES, registration no. 1958638, registration date: September 28, 2018;
- United States of America: word mark COINSHARES, registration no. 6080915, registration date: June 16, 2020.

The registrations have been duly renewed and are still valid, and will hereafter together referred to in singular as the "Trademark".

The Complainants operate an official website from the URL "<https://coinshares.com>".

The disputed domain name was created on February 3, 2021. Initially it resolved to an active website, as further described below. It does not resolve to an active website at the time of the submission of the Complaint.

5. Parties' Contentions

A. Complainant

The Complainants contend they have a specific common grievance against the Respondent, in that the Respondent has targeted both Complainants' rights. The Complainants referred to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), and argue that they have met the required conditions for the consolidation of the Complainants.

The First Complainant was founded in 2017 and offers a wide range of financial services to companies, financial institutions and individuals under the brand COINSHARES. The First Complainant is particularly specialized in bitcoin and blockchain networks, managing billions of dollars in assets on behalf of its clients. The company is listed on the Nasdaq First North Growth Market.

The Second Complainant is the Complainants' group's holding company and the proprietor of trademark registrations the Complaint is based on.

The Complainants contend that the disputed domain name is confusingly similar to a trade mark in which the Second Complainant has rights.

The Complainants aver that the disputed domain name incorporates the Complainants' COINSHARE mark in its entirety. The Complainants therefore submit that the disputed domain name is identical to the COINSHARE mark, and confusingly similar to the COINSHARES marks in that it only differs by the omission of the letter "s" and that missing that single letter does not dispel any confusing similarity between the Trademark and the disputed domain name.

A Top-Level Domain ("TLD") is required only for technical reasons and, as is common in proceedings under the UDRP, is generally ignored for the purposes of comparison of the Complainant's marks to the disputed domain name. However, the Complainants observe that the TLD <.ltd>, is a common abbreviation for "limited" and often incorporated in a company's formal name. In this case, the TLD falsely implies that the disputed domain name is, at least, a formally incorporated limited company or the Complainants themselves. The TLD therefore does nothing to further dispel any confusion and instead only serves to amplify the possibility of confusion.

The Complainants contend that the Respondent does not have any rights or legitimate interests in the disputed domain name.

The Complainants have found no evidence that the Respondent has been commonly known as COINSHARE or COINSHARES, with or without the <.ltd> TLD. The Respondent is not a licensee of the Complainants and has not received any permission or consent from either Complainant, collectively or singly, to use their marks and be part of their brand.

The Complainants have found no evidence that the Respondent owns any trademarks incorporating the terms COINSHARE or COINSHARES. Equally, the Complainants have found no evidence that the Respondent has ever traded legitimately under the names "coinshare" or "coinshares".

The Complainants contend that given the fame of their marks and the confusing similarity of the disputed domain name to the Trademark, there is no conceivable use to which the disputed domain name could be put now, or in the future, that would confer any legitimate interest upon the Respondent.

The Complainants have observed that the disputed domain name previously (until at least February 27, 2022) resolved to a website that purported to be part of the Complainants' brand as evidenced by:

- the use of a typographical variant of the Complainants' marks and brand at the top of the site as well as within text boxes;
- the Respondent's usage of the First Complainant's subsidiary company registry number and certificate to present itself as such;
- a similar look and feel to the Complainants' own corporate style including the font metrics and the structure of the website.

The Complainants therefore aver that the Respondent targeted their brand to deceive Internet users into believing that the website was owned and operated by the Complainants. No such misleading and confusing use could relate to a genuine, *bona fide* offering of goods and services and such use could not grant the Respondent a legitimate interest in the disputed domain name.

The disputed domain name has led to an active website which appeared to offer financial services to users in the United Kingdom. The disputed domain name is subject to an official warning by the United Kingdom's Financial Conduct Authority ("FCA"). The FCA warns consumers that the Respondent "may be providing financial services or products in the UK" without their authorization and that it is "targeting people in the UK".

Given that the disputed domain name has been identified as fraudulent by the FCA, the Complainants have a reasonable belief that the disputed domain name is being used for criminal purposes to fraudulently lure potential customers to a website offering financial services without FCA authorization. Such use or potential use could never give the Respondent a legitimate interest in the disputed domain name.

Regarding the present matter, it appears to be unlikely that the Respondent intended to use the disputed domain name for any legitimate or fair use. It is more likely than not that it has been used for criminal purposes.

The Complainants note that when the initial website was active, the Respondent falsely presented itself as the Complainants' subsidiary. The Respondent's website incorporated a notice claiming that the Respondent was a "company incorporated in United Kingdom under company number 11646039". The company legally registered under this number (11646039) is "Coinshares Capital Markets (UK) Limited", a wholly owned subsidiary of the First Complainant. The website did not contain any disclaimers or make clear the relationship (or, more accurately, nonrelationship) between the Parties.

The disputed domain name does not resolve to an active website at the time of submission of the Complaint.

The Complainants contend that the disputed domain name was registered and is being used in bad faith.

Given that the Complainants' Trademarks are well known, the Complainants assert that it is inconceivable that the Respondent did not have the Complainants firmly in mind when it acquired the disputed domain name.

The Complainants assert that as the disputed domain name incorporates the Complainants' well-known Trademark identically respectively in a typographical variant, the disputed domain name is, at first glance, confusing to Internet users.

Further the Complainants observe that the Respondent presented itself as one of the Complainants' subsidiaries in the United Kingdom on its website which in some manners copied the look and feel of the Complainant's own website.

The Complainants have observed that the disputed domain name has been flagged by the FCA for potentially offering financial services without their authorization. The Complainants contend that such attempt to deceive Internet users cannot be a *bona fide* use and avers that any such use must be abusive to or take unfair advantage of the Complainants' rights and brand.

The Complainants note that at the point of submission of the Complaint the website associated with the disputed domain name is "passively held". The Complainants assert that such passive holding of the disputed domain name constitutes bad faith.

The Complainants finally argue that the use of a privacy service by the Respondent is indicative of bad faith.

The Complainants request that the disputed domain name be transferred to the First Complainant.

B. Respondent

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

The Complainant send a copy of its amended Complaint to the email address of the Respondent provided by the Registrar. In response to this an email was received stating: "Please what is this all about". Emails subsequently sent by the Center to this email address have not been answered.

6. Discussion and Findings

6.1 Preliminary Issue: Consolidation of the Complainants

The Complainants have requested consolidation, due to their common legal and business interest in the Trademark; and their specific common grievance against the Respondent. The Complainants contend that the disputed domain name takes unfair advantage of the First Complainant's brand and is confusingly similar to the Second Complainant's registered rights.

The Respondent has not made any submissions on this issue.

In this regard, the [WIPO Overview 3.0](#) states in section 4.11.1: "In assessing whether a complaint filed by multiple complainants may be brought against a single respondent, panels look at whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation."

The Panel finds that the Complainants have a common grievance against the Respondent, and the Respondent has engaged in common conduct that has affected the Complainants' rights in a similar fashion. The Panel also finds that it would be procedurally efficient and equitable to all the Parties for the Complainants to be consolidated.

In all the circumstances, the Panel therefore determines, under paragraph 10(e) of the Rules, that there be consolidation of the Complainants in this proceeding.

6.2. Discussion and Findings on the merits

Pursuant to paragraph 4(a) of the Policy, the Complainants must prove each of the following three elements:

- (i) the domain name is identical or confusingly similar to the trademark or service mark in which the Complainants have rights;
- (ii) the 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

The Complainants must demonstrate that they have rights in the Trademark and, if so, that the disputed domain name is identical or confusingly similar to the Trademark. It should be noted that the first element serves as a standing requirement.

The Second Complainant has proven that it has registered rights in the Trademark. Furthermore, the disputed domain name is identical or confusingly similar to the Trademark in which the Complainants have rights for purposes of the Policy, as the disputed domain name consists of the Trademark COINSHARE in its entirety.

The disputed domain name is also confusingly similar to the COINSHARES marks in that it only differs by the omission of the letter "s" and that missing single letter does not dispel any confusing similarity between the Trademark and the disputed domain name.

A TLD is required only for technical reasons and, as is common in proceedings under the UDRP, is generally ignored for the purposes of comparison of the Complainant's marks to the disputed domain name. The TLD in the present case, <.ltd>, is a common abbreviation for "limited".

The Panel therefore finds that the disputed domain name is identical or confusingly similar to the Trademark and that the first element is satisfied.

B. Rights or Legitimate Interests

This, the second element of the Policy (paragraph 4(a)(ii)), essentially calls for a complainant to prove a negative, which is far from easy where the relevant information as to the respondent's rights or legitimate interests is often primarily within the knowledge of the respondent. The matter is addressed in section 2.1 of [WIPO Overview 3.0](#) as follows:

"While 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 often impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element."

The facts as set out in Section 5 above leave no room for doubt. The facts speak for themselves:

1. The Respondent has not been commonly known as or has ever traded legitimately under the names "coinshare" or "coinshares", with or without the <.ltd> TLD. The Respondent is not a licensee of the Complainants and has not received any permission or consent to use the Trademark.
2. The Respondent registered the disputed domain name, a name substantially identical to the name of the Complainants, more likely than not in order to facilitate his fraudulent intent, using it to connect to a fraudulent website.
3. The Respondent adopted the disputed domain name <coinshare.ltd>, to enable him to represent falsely to others that his company was a subsidiary of the Complainant's parent company or otherwise connected to the Complainants.
4. On the website the Respondent incorporated a notice claiming that the Respondent was a "company incorporated in United Kingdom under company number 11646039"; this, however, is the company number of a wholly owned subsidiary of the First Complainant.
5. The website to which the disputed domain name resolves is subject to an official warning by the United Kingdom's FCA. The FCA warns consumers that the Respondent "may be providing financial services or products in the UK" without their authorization and that he is "targeting people in the UK".
6. Given the fame of the Trademark and the confusing similarity of the disputed domain name to the Trademark, there is no conceivable use to which the disputed domain name could be put now, or in the future, that would confer any legitimate interest upon the Respondent.
7. Because of his failure to submit a response, the Respondent has not refuted the arguments of the Complainant and/or shown rights to or legitimate interests in the disputed domain name.
8. The disputed domain name does not currently resolve to an active website.

Based on the forgoing, on no basis could such activity give rise to rights or legitimate interests in respect of the disputed domain name in the hands of the Respondent.

Having regard to the above considerations, the Panel finds that the second element of the Policy under paragraph 4(a) has been satisfied.

C. Registered and Used in Bad Faith

The Respondent has included the well-known Trademark and has added the TLD “ltd” in the creation of the disputed domain name, while the Complainant owns and has been using the Trademark and the domain name <coinshares.com>. This leads the Panel to believe that the Respondent was or must have been aware of the Trademark and the specific use made by the Complainant of its domain name when registering the disputed domain name. The Panel is therefore satisfied that the disputed domain name was registered in bad faith.

The disputed domain name is also ideally suited to misleading the public. The composition of the disputed domain name itself, also in combination with the TLD “ltd”, strongly suggests that it redirects to a website of the Complainant, or a corporation associated with it. The composition of the disputed domain name carries a high risk of implied affiliation. The Respondent has sought to create a misleading impression of association with the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

The Panel also refers to the reasoning under B.

For the sake of completeness however, and given the disputed domain name now resolves to an inactive webpage, the Panel also deals with the doctrine of passive holding. A passive holding (or non-use) of a domain name does not prevent a finding of bad faith. As section 3.3 of the [WIPO Overview 3.0](#) states, panels must “look at the totality of the circumstances in each case” and “factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant’s mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement), and (iv) the implausibility of any good faith use to which the domain name may be put”. There is no shortage of reasons to justify a finding of bad faith in this proceeding under the passive holding doctrine, particularly noting the well-known nature of the Complainants’ Trademark, and the implausibility of any good faith use to which the disputed domain name may be put.

The Panel finds that the disputed domain name has been registered and is being used in bad faith within the meaning of paragraph 4(a)(iii) 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 <coinshare.ltd> be transferred to the First Complainant.

/Richard C.K. van Oerle/
Richard C.K. van Oerle
Sole Panelist
Date: January 30, 2023