

## **ADMINISTRATIVE PANEL DECISION**

### **Polychain Capital LP v. Scott Gurten and Thomas Wang Case No. D2023-2240**

#### **1. The Parties**

Complainant is Polychain Capital LP, United States of America (“United States”), represented by Greenberg Traurig, LLP, United States.

Respondent is Scott Gurten and Thomas Wang, United States.

#### **2. The Domain Names and Registrar**

The disputed domain names <polychaincap.com> and <polychainmedia.com> (the “Domain Names”) are registered with GoDaddy.com, LLC (the “Registrar”).

#### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 23, 2023. On May 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Names. On May 25, 2023, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email to Complainant on June 8, 2023, 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 June 12, 2023.

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 June 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was July 4, 2023. The Response was filed with the Center on June 14, 2023.

Complainant submitted unsolicited supplemental filings on July 19, 2023. In its discretion, the Panel, once appointed, decided to consider Complainant’s supplemental filings.

The Center appointed Robert A. Badgley as the sole panelist in this matter on August 11, 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**

Complainant alleges:

“Polychain Capital LP [...] was founded in 2016 by founder and Chief Investment Officer Olaf Carson-Wee. Since then, Polychain Capital has been a pioneer in the cryptocurrency and digital asset space. It is among the most well-known crypto investors and is focused on investing in novel protocols and companies. The firm has 45 employees and more than [USD] 4 billion in assets under management.”

Annexed to the Complaint are various media articles discussing Complainant and the POLYCHAIN services. For example, a February 8, 2022, *Forbes* article includes the following quote: “Polychain is among a handful of big hedge funds and VCs [venture capitalists] [...] which, behind the scenes, centrally control many of the biggest decentralized platforms.”

A *Fortune* article dated June 26, 2018, bears the headline: “Polychain Becomes First \$1 Billion Crypto Fund. What Happens Now?”

Complainant holds a registered trademark for POLYCHAIN with the United States Patent and Trademark Office (“USPTO”), Reg. No. 5,511,777, registered on July 10, 2018 in connection with, among other things, “hedge fund investment services” and “financial services,” with an August 25, 2016 date of first use in commerce. Complainant holds trademark registrations for POLYCHAIN in several other countries as well.

Complainant owns the Domain Name <polychain.capital>, and it has used that domain name to host a website since 2016.

The Domain Name <polychainmedia.com> was registered on November 10, 2017, and the Domain Name <polychaincap.com> was registered on July 13, 2018. As evidenced by April 18, 2023, screenshots annexed to the Complaint, both Domain Names resolved to very similar parking pages generated by the Registrar. Both parking pages bore hyperlinks. The site at <polychaincap.com> contained hyperlinks for “Hoses,” “Cd Continuous Deployment,” and “Gates Powergrip Belt.” The site at <polychainmedia.com> contained hyperlinks for “Hoses,” “Power Grips,” and “Pulleys.” Complainant alleges that these hyperlinks generate pay-per-click (“PPC”) revenue for Respondent. Respondent does not dispute this allegation.

An unrelated company, The Gates Rubber Company, holds a registered trademark for POLY CHAIN with the USPTO, Reg. No. 985,961, registered on June 11, 1974, in connection with “power transmission belts.” This other trademark is irrelevant to the disposition of this proceeding, but is mentioned to give context to Respondent’s email to the Center, quoted below.

As of April 18, 2023, the Domain Name <polychainmedia.com> was advertised for sale at the Afternic website for USD 589. As noted below, in Respondent’s third (June 14, 2023) email to the Center, Respondent demanded USD 50,000 to transfer the Domain Name to Complainant.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant contends that it has satisfied each of the three elements required under the Policy for a transfer of the Domain Names.

## **B. Respondent**

The substantive entirety of Respondent's Response is set forth in his three emails of June 14, 2023, to the Center, as follows:

First email. "I am willing to discuss a settlement / sale of the disputed domain [www.polychainmedia.com](http://www.polychainmedia.com). As I am no longer using it. However you should be aware that 'Poly Chain' is a registered trademark of the Gates Corporation. The trademark details have been attached for your reference. However this domain in no way infringes on any copyright laws related to your client. I am not aware nor have I ever been aware of a company called Pollychain Capital. The domain name was purchased for advertising and marketing blog of polychain belt technologies. 'Poly Chain synchronous belts help reduce maintenance, component cost and weight, withstand rust and chemicals, and achieve energy savings when replacing V-belts or older synchronous belts.'"

Second email. "I'm not infringing on anyone or anything. I have owned [polychainmedia.com](http://polychainmedia.com) for years. I'm open to realistic offers from your client."

Third email. "The domain can be purchased for [USD 50,000]. I have no relation with Poly Chain Capital. I have owned [Polychainmedia.com](http://Polychainmedia.com) for years. This is frivolous."

Respondent does not address at all the second Domain Name, [polychaincap.com](http://polychaincap.com).

## **6. Discussion and Findings**

### **6.1 Consolidation**

Under section 4.11.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), "a panel may consolidate in a single proceeding a complaint filed against multiple respondents, based primarily on whether: (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties."

Guided by these principles, the Panel here concludes that consolidation in the instant case is appropriate. First, neither of the two purported Respondents has come forward to dispute the allegation that the two Domain Names are under common ownership and/or common control, nor to assert that there would be any prejudice to his case if the two Domain Names here were consolidated in a single proceeding.

Second, as noted by Complainant, both Domain Names were registered with the same Registrar using the same privacy service, both Domain Names are very similar in composition (*i.e.*, both incorporate Complainant's POLYCHAIN mark and add a single word, either "media" or "cap"), both resolve to similar websites, and both are hosted by the same IP address.

On the undisputed record and the plausible arguments raised by Complainant, the Panel concludes that consolidation here is appropriate.

In these circumstances, and absent any denial by either purported Respondent that the Domain Names are under common control, the Panel concludes that the Domain Names are more likely than not under common ownership and/or control, and that consolidation of both Domain Names in this single dispute is warranted.

The Panel will refer to "Respondent" in the singular.

### **6.2 Merits**

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; and
- (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 concludes that Complainant has rights in the trademark POLYCHAIN through registration and use demonstrated in the record. The Panel also concludes that each of the Domain Names is confusingly similar to that mark. The POLYCHAIN mark is clearly recognizable within the Domain Names, notwithstanding the additional terms “media” or “cap.”

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 respect of the Domain Names. Respondent says nothing about the Domain Name <polychaincap.com>, and Respondent claims to have registered the Domain Name <polychainmedia.com> “for advertising and marketing blog of polychain belt technologies.” Respondent provides no evidence that he has made such a use of, or even demonstrable preparations to use, either Domain Name for the purpose alleged. In view of Respondent’s attempt to sell the Domain Name <polychainmedia.com> for USD 589 and his later demand of USD 50,000, the Panel finds Respondent’s purported motivation to be pretextual and not genuine.

The foregoing use of the Domain Names is not legitimate.

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 Name registrations 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, on this record, that Respondent has registered and used the Domain Names in bad faith. As discussed above, Respondent's explanation about his motivation for registering <polychainmedia.com> lacks credibility. Having lost credibility on that point, Respondent also loses credibility when he denies ever having heard of Complainant's POLYCHAIN mark.

On this record, the Panel finds it more likely than not that Respondent registered the Domain Names with Complainant's POLYCHAIN mark in mind – notwithstanding the existence of a third-party mark, it strikes the Panel as beyond coincidental that the terms "media" and "cap" were appended to the Complainant's mark in particular as the latter is a shortened version of the Complainant's corporate name and principal domain name, and did so with the primary purpose of selling these Domain Names for amounts well in excess of his out-of-pocket costs, in violation of the above-quoted Policy paragraph 4(b)(i).

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 <polychaincap.com> and <polychainmedia.com> be transferred to Complainant.

*/Robert A. Badgley/*

**Robert A. Badgley**

Sole Panelist

Date: August 25, 2023