

ADMINISTRATIVE PANEL DECISION

Phoenix Life Limited v. Sonal choudhary
Case No. D2023-4367

1. The Parties

- 1.1 The Complainant is Phoenix Life Limited, United Kingdom ("U.K."), represented by Pinsent Masons LLP, U.K.
- 1.2 The Respondent is Sonal choudhary, U.K.

2. The Domain Name and Registrar

- 2.1 The disputed domain name <phoenixgrouplimited.com> (the "Domain Name") is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

- 3.1 The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on October 20, 2023. At that time Whois details for the Domain Name recorded the registrant as "Registration Private" of "Domains By Proxy, LLC". On October 23, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On the same date, the Registrar by email to the Center disclosed the underlying registrant and contact information for the Domain Name.
- 3.2 The Center sent an email to the Complainant on November 1, 2023 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 amended Complaint on November 6, 2023.
- 3.3 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").
- 3.4 In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on November 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was December 4, 2023.

3.5 On November 15, 2023 the Center received an email from the Respondent that stated as follows:

"I just saw emails regarding dispute over domain, complaints and all. I bought that from go daddy so why I'm getting dragged in this, you guys suppose to complain against go daddy for making that domain available. I have nothing to do it was available I bought it simple. I'm a normal person who doesn't know much about these legal languages and all but this is not my matter to get these emails and complaints as I bought that on online platform. Any cooperation you want I would be happy to give."

3.6 Aside from this email, the Respondent did not submit any formal response. Accordingly, the Center notified the Commencement of Panel Appointment Process on December 8, 2023.

3.7 The Center appointed Matthew S. Harris as the sole panelist in this matter on December 18, 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

4.1 The Complainant is a company incorporated in England and Wales and is a subsidiary of Phoenix Group Holdings Plc. Phoenix Group Holdings Plc is one of the United Kingdom's largest long-term savings and retirement business. The PHOENIX brand was initially used as part of the name "Phoenix Assurance", which has been trading since 1786. Over the years, the business of a number of different life companies have been brought together under the name "Phoenix Life". As of 2021, the Complainant's group administered assets of *circa* 12 million customers, the total value of which was *circa* GBP259 billion.

4.2 The Complainant is the owner of various registered trade marks in various jurisdictions that comprise or incorporate the terms "Phoenix" or "Phoenix Group". In the United Kingdom they include the following:

- (i) United Kingdom registered trade mark no UK00001306768 for PHOENIX as a word mark filed on April 9, 1987 and proceeding to registration on October 4, 1990 in respect of services in class 36;
- (ii) United Kingdom registered trade mark no UK00002549371 for a device mark filed on June 3, 2010 and proceeding to registration on October 22, 2010 in respect of services in classes 35 and 36, and which takes the following form:



4.3 The Complainant also own various domain names that incorporate the term "Phoenix", from which it operates websites that relate to and promote the business of the Complainant's group of companies. These include the domain name <thephoenixgroup.com>, which has been registered since January 1997 and from which the Complainant's group has operated a website since at least April 2010.

4.4 The Respondent appears to be an individual based in the United Kingdom.

4.5 The Domain Name was registered on July 5, 2023. It has been used since registration for a parking page that appears to have been generated by the Registrar. Links displayed on that page have included “Hongkong [sic] Company”, “Investments” and “Pharma Company”.

5. Parties’ Contentions

A. Complainant

- 5.1 The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.
- 5.2 In this respect, and addition to the facts and matters identified in the Factual Background section of this decision, it contends that the Domain Name has been registered by the Respondent “as a pretext for commercial gain and to unfairly profit from the Complainant’s goodwill and reputation” and that there is “no doubt” that the Respondent registered the [Domain Name] in full knowledge of the Complainant’s activities and reputation ...”. It further contends that it “suspects” that the Domain Name was registered and is being used “to impersonate the Complainant or at least to create a false impression of association with the Complainant and to use it as a means of deceiving Internet users”.

B. Respondent

- 5.3 The Respondent did not file a formal Response to the Complainant’s contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

- 6.1 It is generally 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 the complainant’s trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ([“WIPO Overview 3.0”](#)), section 1.7.
- 6.2 The Panel finds that the Complainant has shown rights trade mark rights in respect of PHOENIX, and that these constitute trade mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Further, the only sensible reading of the Domain Name is as the terms “Phoenix”, “Group” and “Limited” in combination with the “.com” generic Top-Level Domain (“gTLD”).
- 6.3 Accordingly, the entirety of the Complainant’s mark is reproduced within the Domain Name and as a consequence that mark is clearly recognisable within Domain Name. It follows that the Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. Although the addition of the ordinary words “Group” and “Limited” in the Domain Name may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.
- 6.4 In the circumstances, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

- 6.5 Paragraph 4(c) of the Policy provides a list of circumstances in which a respondent may demonstrate rights or legitimate interests in a disputed domain name.

- 6.6 In the present case the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has not rebutted the Complainant's *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name.
- 6.7 However, dealing with the issue more directly, and for reasons that are set out in the context of its assessment of bad faith, the Panel is satisfied that the Complainant is correct when it asserts that the Domain Name has been registered and held in order to impersonate the Complainant, and most probably for some form of commercial gain. There is no right or legitimate interest in such impersonation (see for example [WIPO Overview 3.0](#), section 2.13.1) and the Panel is of the view that such impersonation provides positive evidence that no such rights or legitimate interests exist.
- 6.8 Accordingly, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

- 6.9 The Panel is satisfied that the Domain Name has been registered and held by the Respondent with knowledge of the Complainant and its rights and with a view to impersonating the Complainant.
- 6.10 This is primarily apparent from the form of the Domain Name itself. As has already been explained in the context of the first element of the Policy, the only sensible reading of the Domain Name is as the terms "Phoenix", "Group" and "Limited" in combination with the ".com" gTLD. As the "Phoenix Group" is the name used by the Complainant's group of companies (and also forms part of a number of registered trade marks owned by the Complainant) and the term "Limited" is the term commonly used for limited liability companies in the United Kingdom, the Domain Name involves a clear and deliberate reference to the group of companies of which the Complainant forms part.
- 6.11 The fact that the Respondent appears to be located in the United Kingdom and the significant size and reputation of the Complainant business in the United Kingdom, further supports the Panel's finding that the Domain Name was registered by the Respondent with the Complainant's business in mind.
- 6.12 It is also noteworthy that, although an allegation of impersonation is clearly advanced in the Complaint, this is not denied by the Respondent. Instead, the Respondent in his email to the Center appears to have adopted the stance that he was entitled to register the Domain Name because it was available, and if there is any fault here it lies with the Registrar in allowing the registration. It is a stance that is misconceived and misunderstands how the relative responsibilities of registrants and registrars work under the UDRP.
- 6.13 Registering and holding a Domain Name that inherently and deliberately impersonates a trade mark holder involves registration and use in bad faith. Accordingly, the Panel finds the third element of the Policy has been established.

7. Decision

- 7.1 For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <phoenixgrouplimited.com> be transferred to the Complainant.

/Matthew S. Harris/

Matthew S. Harris

Sole Panelist

Date: December 30, 2023