

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Jeremy
Case No. D2023-4384

1. The Parties

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

The Respondent is Jeremy, United States, self-represented.

2. The Domain Name and Registrar

The disputed domain name <lplfinancialservice.com> is registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 23, 2023. On October 24, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 31, 2023, 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 (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 31, 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.

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 November 10, 2023. The Respondent initially expressed an interest in settlement, but the parties did not resolve the dispute. In accordance with the Rules, paragraph 5, the due date for Response was November 30, 2023. The Response was filed with the Center on November 28, 2023.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on December 5, 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 Complainant is a limited liability company established under the law of the State of California and headquartered in San Diego, California, United States. It was formed in 1989 through the merger of two brokerage firms, Linsco and Private Ledger; hence the initials forming the name of the merged group. The Complainant serves more than 21,000 independent financial advisors and financial institutions, providing them with brokerage, advisory, technology, research, clearing and compliance services, as well as practice management programs. The Complainant has more than 4800 employees, with primary offices in Massachusetts, South Carolina, and Texas as well as in California.

The Wikipedia article on the Complainant reports that it is considered the largest independent broker-dealer in the nation and a leading financial advisory firm. The industry publication *Financial Planning* ranked the Complainant first by revenue among independent broker-dealers in the United States every year from 1996 through 2020. Shares in the Complainant's parent company, LPL Financial Holdings Inc., have been traded on the NASDAQ stock exchange since 2010, listed as "LPLA". The Complainant's group reported gross profits of nearly USD 1 billion in the second quarter of 2023.

The Complainant owns many domain names incorporating the initials "LPL", including <lpl.com> (registered in 1994), used for its main corporate website, as well as <lpl.net> and <lpl-financial.com>. In addition, the Complainant's parent company owns the new generic top-level domains (gTLDs) ".lpl" and ".lplfinancial". The Complainant maintains a linked social media presence as well, with more than 20,000 followers each on Facebook and X (formerly known as Twitter), as well as LinkedIn, YouTube, and Instagram accounts.

The Complainant holds the following trademark registrations:

MARK	JURISDICTION	REGISTRATION NUMBER	REGISTRATION DATE	CLASS / DESCRIPTION
LPL (letters and design)	United States	3662425	August 4, 2009	IC 36, 42: financial management services, technology services
LPL (standard characters)	United States	1801076	October 26, 1993	IC 36: financial management services
LPL (word)	United Kingdom	UK00003753607	May 13, 2022	
LPL (word)	United Kingdom	UK00003753611	May 13, 2022	IC 36, 42: financial management and advisory services, technology services
LPL (word)	European Union	018653022	May 26, 2022	IC 36: financial services

The Registrar reports that the disputed domain name was registered on July 4, 2023, in the name of a domain privacy service. After receiving notice of the Complaint in this proceeding, the Registrar identified the underlying registrant as the Respondent, who gave his name only as "Jeremy", showing no organization and listing a postal address in the Commonwealth of Massachusetts, United States, with a Gmail contact email address.

It does not appear that the disputed domain name has ever resolved to an active website. On October 5, 2023, representatives of the Complainant sent a cease-and-desist letter to the Respondent through the Registrar but received no response. This proceeding followed.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

The Complainant asserts that the disputed domain name is confusingly similar to its registered LPL and LPL Financial trademarks, as it contains those marks as its "leading elements". The Complainant contends that the Respondent is unable to invoke any rights or legitimate interests in the disputed domain name, which it has not put to use, nor is there evidence of demonstrable preparations make legitimate use of the disputed domain name. The Respondent has no license from the Complainant to use the Complainant's marks, and there is no evidence that the Respondent is commonly known by a corresponding name. The Complainant argues for a finding of bad faith, as its marks are "inherently distinctive" and have been in continuous and extensive use for over thirty years. The Complainant cites two previous WIPO UDRP decisions in its favor on this point:

LPL Financial LLC v. 钱梦聘 (Qianmengdan), WIPO Case No. [D2021-0150](#): "Complainant has widespread reputation as a leader in the retail financial advice market, and is considered the largest independent broker-dealer in the USA. [...] It is not conceivable that Respondent would not have had actual notice of the LPL and LPL FINANCIAL marks at the time of the registration of the disputed domain name (in September 2020). The Panel therefore finds that the LPL and LPL FINANCIAL mark is not one that a trader could legitimately adopt other than for the purpose of creating an impression of an association with Complainant."

LPL Financial LLC v. 杨智超 (Yang Zhi Chao), WIPO Case No. [D2021-0058](#): "It is not conceivable that Respondent would not have had actual notice of the LPL and LPL FINANCIAL marks at the time of the registration of the disputed domain name (in October 2020). The Panel therefore finds that the LPL and LPL FINANCIAL mark is not one that a trader could legitimately adopt other than for the purpose of creating an impression of an association with Complainant."

The Complainant observes that the primary search results for "LPL Financial" in Google refer almost exclusively to the Complainant (the Panel notes that this is true for the first several pages of search results in other major search engines as well).

The Complainant concludes that the Respondent must have been aware of the Complainant's marks and the high risk of implied affiliation with the disputed domain name. Despite the lack of active use of the disputed domain name to date, the Complainant relies on the doctrine of "passive holding" as first articulated in *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 3.3. The Complainant argues that its marks are well known internationally; the disputed domain name carries a high risk of implied affiliation; the Respondent has obscured its identity, failed to respond to the cease-and-desist letter, and has not come forward to assert rights or legitimate interests in this proceeding, and there is no apparent good-faith use for the disputed domain name.

The Complainant concludes by noting the threat of abuse of such an inherently misleading domain name in the financial services industry:

"In the Complainant's view, the presence of the Domain Name 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 Name 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. Indeed, the banking industry is viewed as a primary target for both fraud and phishing schemes."

B. Respondent

The Respondent (still not identified by a full name) submitted a Response on the Center's template with the following statements:

"I do not contest the claims put forth by the Complainant. I hereby express my willingness to voluntarily transfer the disputed domain name [lplfinancialservice.com] to the Complainant without further contest. ... The Respondent does not request the Panel to make a finding of reverse domain name hijacking. No supporting evidence is attached."

...

"I would like to affirm my agreement with some of the claims made by LPL Financial LLC and address the specific points raised. Confusing Similarity: I acknowledge that the domain name may be seen as identical or confusingly similar to the trademarks owned by LPL Financial LLC, specifically 'LPL' and 'LPL FINANCIAL.' I concede the validity of this point. No Rights or Legitimate Interests: I recognize the Complainant's contention that I lack rights or legitimate interests in the domain name. I concur with the argument that I have not used the domain in connection with any bona fide offering of goods or services. The domain remains inactive, and I have no legitimate claim to the term 'LPL' or 'LPL FINANCIAL' in this context. Bad Faith Registration and Use: I acknowledge the Complainant's position on bad faith registration, however, I disagree with the fact that I have registered the site in 'bad faith'. The site points to a blank website (annex 1 [screenshot]) and has never been used. The only thing I have done with the site was register it. I never thought that the registration of the domain could be perceived as an attempt to create an impression or association with LPL Financial LLC. I again want to reiterate I never attempted to confuse or mislead anyone in regard to LPL Financial, hence the blank site. In consideration of the above, I want to again express my willingness to voluntarily transfer the domain to LPL Financial LLC. I have tried to do this in the past (annex 2) but I have still been denied (annex 3). I again want to reiterate I wish to seek a smooth and prompt transfer process."

The Respondent's annexes 2 and 3 are copies of the emails exchanged after this proceeding was launched, in which the Respondent offered to transfer the disputed domain name in an "amicable resolution".

6. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest a respondent of a domain name, a complainant must demonstrate each of the following: (i) the 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 domain name; and (iii) the domain name has been registered and is being used in bad faith. Under paragraph 15(a) of the Rules, "[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A. Identical or Confusingly Similar

It is well 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 trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

Based on the available record, the Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

The Panel finds the entirety of the marks LPL and LPL FINANCIAL are reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of another term here, “service”, may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

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

Although 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 difficult 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 (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed 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 disputed domain name such as those enumerated in the Policy or otherwise. Indeed, the Respondent concedes this point and offers only to transfer the disputed domain name.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, 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, and (iii) the respondent’s concealing its identity or use of false contact details (noted to be in breach of its registration agreement). [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant’s trademark and the composition of the disputed domain name and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. Notably, while the Respondent denies bad faith, the Respondent does not deny prior awareness of the Complainant or its marks and offers no explanation for registering the disputed domain name other than to refer to those marks. The Panel finds no plausible reason other than to take advantage of the reputation associated with the Complainant’s trademarks, which must be deemed bad faith within the meaning of the Policy.

Based on the available record, the Panel finds that the Complainant has established the third 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 <lpfinanciaiservice.com> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: December 19, 2023