

ADMINISTRATIVE PANEL DECISION

Principal Financial Services, Inc. v. fff drdd
Case No. D2023-4964

1. The Parties

The Complainant is Principal Financial Services, Inc., United States of America (“United States”), represented by Neal & McDevitt, United States.

The Respondent is fff drdd, Hong Kong, China.

2. The Domain Name and Registrar

The disputed domain name <principal-apps.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 29, 2023. On November 29, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 29, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 4, 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 January 10, 2024.

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 January 15, 2024. In accordance with the Rules, paragraph 5, the due date for Response was February 4, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 5, 2024.

The Center appointed Douglas Clark as the sole panelist in this matter on February 12, 2024. 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 publicly-traded (NASDAQ–PFG) financial services institution offering, through its licensees, member companies and affiliates, a broad range of services in the financial, insurance, investment, banking, retirement, global asset management, real estate, and healthcare sectors, among others.

The Complainant is the registered proprietor of services marks for PRINCIPAL in the United States in a number of classes for financial services. (For example, Reg No. 1,562,541, registered on October 24, 1989.) It also has a number of registrations incorporating PRINCIPAL. It stated in its complaint it also had numerous registrations for PRINCIPAL worldwide, but did not provide any details of, or exhibit any registration certificates for, registrations outside the United States.

The Complainant is also the registered proprietor of a stylized “P” mark, which is also registered in the United States for a variety of financial services (Reg. No. 5,083,539, registered on November 15, 2016).

The Respondent is not identifiable from the name provided to the Center by the Registrar. The address information provided does not provide a genuine address but states the Respondent is located in Hong Kong, China. A phone number is given as +852 12345678. +852 is the region code for Hong Kong, China, however the phone number itself is clearly fake.

The disputed domain name was registered on November 21, 2023. At the time of filing of the Complaint it resolved to a page displaying the Complainant’s stylized “P” mark and stating “歡迎來到principal” (“Welcome to Principal” in English). The page had two buttons which a user could click to download an Android or iPhone app.

5. Parties’ Contentions

The parties contend as follows.

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 contends that:

(a) The disputed domain name is confusingly similar to its trade mark. The disputed domain name is confusingly similar to the Complainant’s trade mark along with the addition of the word “apps”. The use of the generic Top-Level Domain (“gTLD”) “.com” in the disputed domain name does not eliminate the overall notion that the designation is connected to the trade mark and the likelihood of confusion that the disputed domain name and the trade mark are associated;

(b) The Respondent has no rights or legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainant in any way and the Complainant has never granted any authorization or license to use the Complainant’s trade mark. The Respondent is not commonly known by the disputed domain name, and has not made a bona fide offering of goods or services or a legitimate noncommercial or fair use of the disputed domain name; and

(c) The disputed domain name was registered and is being used in bad faith. The Respondent must have known of the Complainant when it registered the disputed domain name. The mere fact that the Respondent has registered the disputed domain name incorporating the trade mark of a well-known company gives rise to an inference of bad faith. The use of the disputed domain name, to apparently distribute malware is in bad faith. The use of a privacy service also goes to show bad faith.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The threshold test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of the service mark PRINCIPAL for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1. The Panel notes that the Complainant has not asserted it has a trade mark for PRINCIPAL registered in Hong Kong, China where the Respondent appears to be located. However, the ownership of a trademark is generally considered to be a threshold standing issue. The location where the mark is registered may be relevant under the second or third elements. [WIPO Overview 3.0](#) section 1.1.2.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The Panel finds the addition of the term "apps" 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.

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.

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.

Panels have held that the use of a domain name for illegal activity, which in this case is alleged to be here to be distributing malware, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Respondent was using the Complainant's stylised P trademark on the website under the disputed domain name and had a message stating “歡迎來到principal” (“Welcome to Principal” in English). The Respondent also masked its identity with a privacy shield and provided a false name and contact details to the Registrar.

The Respondent clearly knew of the Complainant when it registered the domain name and did so in bad faith.

The Respondent has also been making available for download what appears to be malware. It has also provided false contact information to the Registrar.

Panels have held that the use of a domain name for illegal activity here the apparent distribution of malware, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The use of false contact information fortifies the finding that the site is intended to be used for illegal purposes.

The Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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 <principal-apps.com> be transferred to the Complainant.

/Douglas Clark/

Douglas Clark

Sole Panelist

Date: February 27, 2024