

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Privacy Service Provided by Withheld for Privacy ehf /
Back Namecheap
Case No. D2022-0487

1. The Parties

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Back Namecheap, France.

2. The Domain Name and Registrar

The disputed domain name <lplinvest.com> (“Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 11, 2022. On February 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On February 14, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 16, 2022, 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 February 17, 2022.

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 February 21, 2022. In accordance with the Rules,

paragraph 5, the due date for Response was March 13, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 14, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on March 18, 2022. 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 an independent broker-dealer in the retail financial advice market in the US. The Complainant was founded in 1989 and has been publicly traded on the "NASDAQ" under "LPLA" since 2010. The Complainant has acquired considerable goodwill and reputation in its LPL brand in the financial service sector. As of February 3, 2022, the Complainant provides an integrated platforms of brokerage and investment advisory services to over 19,876 financial professionals and approximately 800 financial institutions, managing over USD 1.2 trillion in advisory and brokerage assets.

The Complainant owns the trademark registrations for mark LPL and LPL FINANCIAL, including, *inter alia*, US Trademark Registration No. 1801076 for LPL, registered on October 26, 1993; US Trademark Registration No. 3662425 for LPL FINANCIAL (device), registered on August 4, 2009; and, Chinese Trademark Registration No. 38031585 for LPL FINANCIAL, registered on February 21, 2020 (the "Complainant's Trademark").

The Complainant also owns many domain names consisting of or containing LPL, including, *inter alia*, <lpl.com>, which was registered in 1994 and resolves to the Complainant's corporate website, and <lplaccountview.com> (the "Complainant's Domain Name"). In addition, the Complainant's parent company is the owner of the branded new generic Top-Level Domains (gTLDs) ".lpl" and ".lplfinancial". The Complainant has a strong social media presence with an official Facebook page that has over 18,000 likes and over 24,000 followers on Twitter.

The Disputed Domain Name was registered on October 12, 2021, nearly 28 years after the Complainant's Trademark was first registered. The Disputed Domain Name previously resolved to a webpage offering cryptocurrency trading services, but now currently resolves to an inaccessible webpage.

5. Parties' Contentions

A. Complainant

(a) The Disputed Domain Name is confusingly similar to the Complainant's Trademark. The Disputed Domain Name incorporates the Complainant's Trademark LPL in its entirety. The addition of the descriptive term "invest" at the end of "lpl" to read "lplinvest" does not prevent a finding of confusing similarity to the Complainant's Trademark. Furthermore, the string "lplinvest" is confusingly similar to the Complainant's Trademark LPL FINANCIAL, in that it incorporates "LPL", and replaces the element "FINANCIAL" with the semantically similar term "invest", which directly relates to the Complainant's activities.

(b) The Respondent does not have any rights or legitimate interests in the Disputed Domain Name. The Respondent does not operate a genuine cryptocurrency trading platform but makes use of the Complainant's Trademark to lend a veneer of authenticity to a fictitious service offering used to mislead Internet users into making "investments" with the Respondent. Moreover, the Respondent has not received any license or other authorization of any kind to make use of the Complainant's Trademark as part of a domain name or otherwise. There is also no evidence suggesting that the Respondent is commonly known by the Disputed Domain Name.

(c) Both the Respondent's registration of and its use of the Disputed Domain Name establish the Respondent's bad faith. The Respondent must have been fully aware of the existence of the LPL brand and the Complainant's right in the Complainant's Trademark when it registered the Disputed Domain Name and used the Complainant's Trademark and contact details on its website. Moreover, the Respondent has intentionally attempted to attract Internet users to its website by using the Complainant's Trademark in a confusing manner. In so doing, the Respondent's actions amount to bad faith.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (i) the Disputed 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 Disputed Domain Name; and
- (iii) the Disputed Domain Name has been registered and is being used by the Respondent in bad faith.

A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its trademark registrations listed above in Section 4.

It is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the gTLD extension, ".com" in this case, may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the term "invest" at the end of "lpl". UDRP panels have consistently found that the addition of other terms to a mark (whether descriptive, geographical, pejorative, meaningless, or otherwise) will not prevent the fact that the domain name at issue is confusingly similar to the mark in question. See section 1.8 of the [WIPO Overview 3.0](#).

The Panel therefore finds that the mere addition of the term "invest" does not prevent a finding of confusing similarity between the Disputed Domain Name and the Complainant's Trademark.

As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the disputed domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts that the Complainant has not authorized the Respondent to use the Complainant's Trademark, and there is no relationship between the Complainant and the Respondent which would

otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name. The Respondent did not submit a Response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favour of the Complainant. However, the Respondent's failure to file a Response may result in the Panel drawing appropriate inferences from such default. The Panel may also accept all reasonable and supported allegations and inferences flowing from the Complaint as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#), and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services;
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if it has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name is in connection with a *bona fide* offering of goods or services. The Panel is of the view that the Respondent's registration and the use of the Disputed Domain Name cannot be regarded as legitimate noncommercial or fair use as the Disputed Domain Name was used for a fictitious service offering, aimed at misleading Internet users into making "investments" with the Respondent. The Respondent appears to have registered the Disputed Domain Name solely for the purpose of misleading third parties into thinking that the Respondent is, in some way or another, connected to, or affiliated with the Complainant and its business, or that the Respondent's business activities are approved or endorsed by the Complainant. The Panel also agrees with the Complainant that, given the nature of the Complainant's business and the fact that the Respondent operates a fraudulent scheme purportedly offering cryptocurrency trading services, and uses the Complainant's Trademark and contact details on its website, the addition of the term "invest" to the Complainant's Trademark, which has the same semantic connotation as "financial", carries a risk that Internet users will be led to believe that the Disputed Domain Name is owned by or associated with the Complainant.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity can already by itself create a presumption of bad faith. See paragraph 3.1.4 of the [WIPO Overview 3.0](#).

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety with the addition of the descriptive term "invest". The website to which the Disputed Domain Name resolves also featured the Complainant's Trademark and contact details. A quick Internet search conducted by the Panel shows that the top search results returned for the keywords "lpl" and "lpl financial" relate to the Complainant's services and/or third party websites providing information relating to the Complainant's services. Therefore, taking this into consideration, the Respondent must have been aware of the Complainant and the Complainant's Trademark rights when registering and using the Disputed Domain Name.

In addition, the Panel finds that the following factors further support a finding that the Disputed Domain Name was registered and is being used by the Respondent in bad faith:

(i) The Respondent failed to respond to the Complainant's contentions and has provided no evidence of any actual or contemplated good faith use by it of the Disputed Domain Name.

(ii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name contains the Complainant's Trademark in its entirety (with the addition of the descriptive term "invest"). The Respondent used the Disputed Domain Name to offer cryptocurrency trading services when no legitimate business was in fact being performed. The Respondent has not demonstrated any attempt to make legitimate use of the Disputed Domain Name and the website to which it resolves, which evidences a lack of rights or legitimate interests in the Disputed Domain Name (see *Washington Mutual, Inc., v. Ashley Khong*, WIPO Case No. [D2005-0740](#)).

(iii) The Respondent registered the Disputed Domain Name using a privacy shield to conceal its identity (see *Primonial v. Domain Administrator, PrivacyGuardian.org / Parla Turkmenoglu*, WIPO Case No. [D2019-0193](#)).

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

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 <lpinvest.com> be transferred to the Complainant.

/Gabriela Kennedy/

Gabriela Kennedy

Sole Panelist

Date: March 29, 2022