

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Domains By Proxy, LLC. / Carolina Rodrigues,
Fundacion Comercio Electronico
Case No. D2022-0819

1. The Parties

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

The Respondent is Domains By Proxy, LLC., U.S. / Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain name and Registrar

The disputed domain name <lplfinancia.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 March 8, 2022. On March 9, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 10, 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 March 15, 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 the Complaint on March 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 March 18, 2022. In accordance with the Rules, paragraph 5, the due date for the Response was April 7, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 8, 2022.

The Center appointed Ada L. Redondo Aguilera as the sole panelist in this matter on April 14, 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 in the present case is LPL Financial LLC, founded in 1989 through the merger of two brokerage firms – Linsco and Private Ledger. The Complainant is a leader in the retail financial advice market, and is considered the largest independent broker-dealer in the U.S.

The Complainant provides the services of independent financial advisors and financial institutions, providing them with the technology, research, clearing and compliance services, and practice management programs they need to create and grow their practices.

Since 2010, the Complainant has been publicly traded on the NASDAQ under “LPLA”. Since February 3, 2022, the Complainant provides an integrated platform of brokerage and investment advisory services to more than 19,876 financial professionals and approximately 800 financial institutions, managing over USD 1.2 trillion in advisory and brokerage assets.

The Complainant has over 5,910 employees, with its primary offices in Austin, Texas; San Diego, California; Fort Mill, South Carolina; Boston, Massachusetts. In 2020, the Complainant’s net revenue reached over USD 7.7 billion, with a gross profit of over USD 2.45 billion.

The Complainant has made substantial investments to develop a strong presence online. The Complainant owns many domain names consisting of or containing “LPL”, including, <lpln.com> registered in 1994, from which it operates its main corporate website, as well as many others, including <lpl.net>, <lpl-financial.com>, and <lplaccountview.com>.

Furthermore, the Complainant’s parent Company, LPL Holdings, Inc., is the owner of the new gTLDs “.lpl” and “.lplfinancial”.

The Complainant has also made investments to develop a strong presence online by being active on various social-media platforms. For instance, the Complainant’s official Facebook page has over 18,000 likes. In addition, the Complainant has over 23,000 followers on Twitter.

The Complainant is the owner of several trademarks for LPL and LPL FINANCIAL, including the following: U.S. Trademark Registration No. 1801076, LPL, registered on October 26, 1993; and U.S. Trademark Registration No. 3662425, LPL FINANCIAL, registered on August 4, 2009.

When entering the disputed domain name in the URL bar of an Internet browser, Internet users are redirected to various commercial web pages.

Additionally, the Complainant presented evidence that the disputed domain name is listed as available for sale for USD 999 on the domain name marketplace Afternic.

The disputed domain name was registered on November 2, 2021.

5. Parties' Contentions

A. Complainant

The Complainant argues that the disputed domain name is confusingly similar to its trademarks LPL and LPL FINANCIAL. Also, the Complainant argues that the Respondent has no rights or legitimate interests with respect to the disputed domain names and finally, that the Respondent registered and is using the disputed domain name in bad faith.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established that it has registered trademark rights in the LPL and LPL FINANCIAL marks. As noted in WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.2.1: "Where the Complainant holds a nationally or regionally registered trademark or service mark, this *prima facie* satisfies the threshold requirement of having trademark rights for purposes of standing to file a UDRP case."

In order to establish the confusing similarity test, panels typically do a side-by-side comparison between the trademark and the domain name to establish if the complainant's trademark is recognizable within the domain name.

In this case, the disputed domain name is <lplfinancia.com>, which has the complete trademark LPL and the trademark LPL FINANCIAL without the "l" at the end of the word "financial".

In the present case, the disputed domain name comprises the Complainant's LPL trademark in its entirety. As stated in [WIPO Overview 3.0](#), section 1.7: "[...] in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing."

Also, in cases where the domain name consists of a common, obvious, or intentional misspelling of a trademark (*i.e.*, typoquatting) the domain name is considered to be confusingly similar to the relevant mark for purposes of the first element (see [WIPO Overview 3.0](#), section 1.9.). Due to the fact that the disputed domain consists of an obvious misspelling of the Complainant's LPL FINANCIAL trademark, omitting the final letter "l", the Panel finds that the disputed domain name is confusingly similar to this mark. Further, while the space between the elements "LPL" and the variant of "FINANCIAL" is omitted, a space is incapable of representation *per se* in a domain name. As such, the disputed domain name is confusingly similar to the Complainant's LPL FINANCIAL trademark. See in this regard the WIPO Case No. [D2021-3670](#), *LPL Financial LLC v. 杨智超 (Zhichao Yang)* in which the panel stated: "The marks LPL and LPL FINANCIAL have been, respectively, reproduced in the disputed domain names, albeit the term 'financial' has been misspelt in the disputed domain names. What is of essence is that the LPL marks are recognizable therein and the disputed domain names correspond to the Complainant's name. The Panel agrees that the addition and omission of letters in the disputed domain names do not avoid a finding of confusing similarity with the Complainant's LPL marks."

In the present case, the disputed domain name reproduces the entire LPL trademark and a misspelling of the LPL FINANCIAL trademark.

For all the foregoing reasons, the Panel finds that the disputed domain name is confusingly similar to trademarks in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy therefore are fulfilled.

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, a respondent may establish rights to or legitimate interests in a disputed domain name by demonstrating any of the following:

- (i) before any notice to you of the dispute, the respondent's use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) The Respondent has been commonly known by the 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 domain name, without intent for commercial gain, to misleadingly divert consumers, or to tarnish the trademark or service mark at issue.

Although the Policy addresses ways in which a respondent may demonstrate rights or legitimate interests in a disputed domain name, it is well established that, as it is put in section 2.1 of the [WIPO Overview 3.0](#), a complainant is required to make out a *prima facie* case that the Respondent lacks rights or legitimate interests. Once such *prima facie* case is made, the burden of production shifts to the Respondent to come forward with relevant allegations or evidence demonstrating rights or legitimate interests in the domain name. If the Respondent does come forward with evidence of relevant rights or legitimate interests, the panel weighs all the evidence, with the burden of proof always remaining on the complainant.

The Complainant contends that the Respondent is not referred to or commonly known by the disputed domain name or any related trademark. It claims it has not authorized the Respondent to use the trademark in any way including use in a domain name. The Complainant presented evidence that the disputed domain redirected to various commercial web pages. Additionally, the Complainant presented evidence that the disputed domain name is listed as available for sale for USD 999 on the domain name marketplace Afternic. At the moment of this decision, the disputed domain name resolves to a pay-per-click site which in turn redirects Internet users to third-party commercial websites which are competitors of the Complainant. This type of use does not show any *bona fide* offering of goods or services. In the present case, the Respondent is not making any legitimate noncommercial or fair use of the disputed domain name.

The Panel finds that the Complainant has made out a *prima facie* case. The Respondent has not responded, and the Panel is unable to conceive any basis upon which the Respondent could have any rights or legitimate interests in respect of the disputed domain name.

For the foregoing reasons the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and the requirements of paragraph 4(a)(ii) of the Policy therefore are fulfilled.

C. Registered and Used in Bad Faith

In order to prevail under the Policy, the Complainant must show that the disputed domain name has been registered and is being used in bad faith.

The Complainant's LPL and LPL FINANCIAL trademarks are well known in connection with the Complainant's financial advisory services. The Complainant's trademarks have been continuously and extensively used for many years and have as a result acquired considerable reputation and goodwill worldwide. Accordingly, the Panel is satisfied that the Respondent must have been aware of the trademarks LPL and LPL FINANCIAL when it registered the disputed domain name, noting also that the disputed domain name is a misspelling of the trademark LPL FINANCIAL.

In this regard, *LPL Financial LLC v. Trever Phalms and Brentwood Towers*, WIPO Case No. [D2015-0052](#), states the following: “[...] the fact that the Disputed Domain names consist of the Complainant’s well-known LPL Marks along with terms that are descriptive of the Complainant’s core services is a further indication that the Respondents were aware of the Complainant’s rights and that they deliberately registered and used the Disputed Domain names in bad faith to profit from the Complainant’s goodwill and reputation.”

There is no doubt that the Respondent must have been aware of existence of the LPL trademark and the LPL FINANCIAL trademark. This in light of the similarity between the disputed domain name and the Complainant’s LPL FINANCIAL and LPL trademarks, and also taking into consideration the moment of registration of the disputed domain name in November 2021, that is 28 years after the Complainant’s first registration of its LPL trademark.

At the time of the Complaint and at the moment of this decision, the Respondent has been using the disputed domain name in bad faith by enabling dynamic redirection to third-party sites, some of a commercial nature, including sites related to financial services.

Therefore, the Panel concludes that the disputed domain name was registered and is being used in bad faith under paragraph 4(b)(iv) 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, <lplfinancia.com> be transferred to the Complainant.

/Ada L. Redondon Aguilera/

Ada L. Redondo Aguilera

Sole Panelist

Date: April 28, 2022