

## **ADMINISTRATIVE PANEL DECISION**

Gemini Trust Company, LLC v. avneesh sharma  
Case No. D2022-1324

### **1. The Parties**

Complainant is Gemini Trust Company, LLC, United States of America (“United States” or “U.S.”), represented by Lee & Hayes, United States.

Respondent is avneesh sharma, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <gemini-login.com> is registered with Eranet International Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 12, 2022. On April 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 15, 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 Complainant on April 19, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amendment to the Complaint on April 20, 2022.

The Center verified that the Complaint together with the amendment to the 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 Respondent of the Complaint, and the proceedings commenced on April 21, 2022. In accordance with the Rules, paragraph 5, the due date for the Response was May 11, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on May 13, 2022.

The Center appointed Brian J. Winterfeldt as the sole panelist in this matter on May 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**

Complainant, a cryptocurrency exchange, was incorporated in New York in the United States in September 2016. Complainant, through a related entity named Gemini IP, LLC, owns valid and subsisting registrations for the GEMINI trademark (the “GEMINI Mark”) used in commerce in the United States for cryptocurrency-related financial services since October 2016, including United States Registration Number 4,893,756 (registered on January 26, 2016), and United States Registration Number 5,932,688 (registered on December 10, 2019). Complainant owns and operates its primary website offering cryptocurrency-related services at the domain name <gemini.com>.

The disputed domain name, <gemini-login.com>, was registered on October 18, 2021. At the time of Complainant’s filing, the disputed domain name resolved to a website imitating the landing page of Complainant’s primary website, albeit with hyperlinks to a third-party cryptocurrency exchange website.

#### **5. Parties’ Contentions**

##### **A. Complainant**

Complainant asserts that the disputed domain name is confusingly similar to Complainant’s GEMINI Mark because it incorporates the entirety of Complainant’s GEMINI Mark in which Complainant has rights, and merely adds the descriptive term “login”.

Complainant asserts that Respondent has no rights or legitimate interests in the disputed domain name. According to Complainant, Respondent was not previously known by the name “Gemini” or “Gemini-Login” and does not have a license or permission from Complainant to use the GEMINI Mark in the disputed domain name. According to Complainant, Respondent is not making legitimate noncommercial or fair use of the disputed domain name because the website hosted at the disputed domain name impersonates Complainant’s website and links contained on the website redirect users to a website directly competing with Complainant.

Complainant asserts that Respondent registered and used the disputed domain name in bad faith. According to Complainant, its GEMINI Mark is well-known and distinctive, appearing first in the list of online search results for “Gemini”, and Respondent’s website is an almost exact replica of Complainant’s website. Complainant states that it can be reasonably inferred Respondent knew of Complainant’s GEMINI Mark before Respondent registered the disputed domain name in 2021, five years after Complainant’s first U.S. trademark registrations issued for the GEMINI Mark. Complainant asserts Respondent incorporated the entirety of Complainant’s GEMINI Mark into the disputed domain name to trick consumers into believing they are visiting Complainant’s website and redirect them to a website directly competing with Complainant. Complainant argues it is more likely than not that Respondent operates the website for commercial gain.

##### **B. Respondent**

Respondent did not reply to Complainant’s contentions.

## 6. Discussion and Findings

### A. Identical or Confusingly Similar

A complainant's ownership of a nationally or internationally registered trademark constitutes *prima facie* evidence that the complainant has the requisite rights in a mark for purposes of paragraph 4(a)(i) of the Policy. [WIPO Overview 3.0](#), section 1.2.1. Here, Complainant has provided evidence that it has rights in the GEMINI Mark through its U.S. trademark registrations.

The remaining question under the first element of the Policy is whether the disputed domain name is identical or confusingly similar to Complainant's GEMINI Mark (typically disregarding the Top-Level Domain ("TLD") in which the domain name is registered). It is well accepted that the first element functions primarily as a standing requirement and that 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 3.0](#), section 1.7. This test typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name. *Id.*

Here, the disputed domain name fully incorporates the GEMINI Mark. The addition of a hyphen and the term "login" does nothing to prevent a finding of confusing similarity under the first element. See [WIPO Overview 3.0](#), section 1.8.

The Panel therefore finds that Complainant has satisfied the requirements of paragraph 4(a)(i) of the Policy in establishing its trademark rights and showing that the disputed domain name is confusingly similar to Complainant's GEMINI Mark.

### B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, Complainant must make at least a *prima facie* showing that Respondent possesses no rights or legitimate interests in a disputed domain name. See, e.g., *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#). Once a complainant makes such a *prima facie* showing, the burden of production shifts to the respondent, though the burden of proof always remains on the complainant. If the respondent fails to come forward with evidence showing rights or legitimate interests, the complainant will have sustained their burden under the second element of the UDRP. See [WIPO Overview 3.0](#), section 2.1.

Respondent has not used the disputed domain name in connection with a *bona fide* offering of goods or services or a legitimate noncommercial or fair use. The evidence demonstrates that Respondent used the disputed domain name for a website that imitates the landing page of Complainant's primary website, but includes hyperlinks to a cryptocurrency exchange website offering competing cryptocurrency-related services. Moreover, the disputed domain name incorporates the GEMINI Mark in its entirety, adding only a hyphen and the word "login" which has an "inherent Internet connotation", thus further evidencing Respondent was attempting to impersonate or suggest sponsorship or endorsement by Complainant. See [WIPO Overview 3.0](#), section 2.5.1. Respondent's impersonation of Complainant cannot be considered a *bona fide* offering of goods or services. See [WIPO Overview 3.0](#), section 2.13.1.

Complainant has provided evidence supporting its *prima facie* claim that Respondent lacks any rights or legitimate interests in the disputed domain name. Respondent, having defaulted, failed to refute Complainant's allegations. Thus, the Panel concludes that Respondent does not have any rights or legitimate interests in the disputed domain name and Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

### C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out of pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

Respondent was clearly aware of Complainant and its GEMINI Mark. Complainant's U.S. trademark registrations for the GEMINI Mark predate Respondent's registration of the disputed domain name by approximately five years and, as discussed *supra*, Respondent has used the disputed domain name for a copycat website that replicates the landing page on Complainant's primary website, albeit with links to a cryptocurrency exchange website offering competing cryptocurrency services.

Although not specifically asserted by Complainant, the disputed domain name's redirection to a website offering competing cryptocurrency-related services indicates Respondent registered the disputed domain name for the purpose of disrupting the business of a competitor, namely, Complainant, within the meaning of Policy paragraph 4(b)(iii). See, e.g., *Travellers Exchange Corporation Limited v. Travelex Forex Money Changer*, WIPO Case No. [D2011-1364](#).

The Panel also finds Respondent's use of the disputed domain name indicates Respondent obtained the disputed domain name to intentionally attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant's GEMINI Mark as to the source, sponsorship, affiliation, or endorsement of the website or of a product or service on the website, within the meaning of Policy paragraph 4(b)(iv). See [WIPO Overview 3.0](#), section 3.1.4.

Accordingly, the Panel finds that Respondent registered and used the disputed domain name in bad faith under paragraphs 4(b)(iii) and 4(b)(iv) of the Policy, and Complainant succeeds under paragraph 4(a)(iii) 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 <geminilogin.com> be transferred to Complainant.

/Brian J. Winterfeldt/

**Brian J. Winterfeldt**

Sole Panelist

Date: May 31, 2022