

ADMINISTRATIVE PANEL DECISION

BGC Partners, L.P., BGC Partners, Inc. v. Domain Admin, Privacy Protect, LLC (Privacyprotect.org) / nwakpa nzube
Case No. D2022-1555

1. The Parties

Complainant is BGC Partners, L.P., BGC Partners, Inc., United States of America, represented by Kilpatrick Townsend & Stockton LLP, United States of America.

Respondent is Domain Admin, Privacy Protect, LLC (Privacyprotect.org), United States of America / nwakpa nzube, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <bgc-financial.com> (“the Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 29, 2022. On April 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On April 30, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to Complainant on May 2, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on May 4, 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 Respondent of the Complaint, and the proceedings commenced on May 19, 2022. In accordance with the Rules, paragraph 5, the due date for Response was June 8, 2022. Respondent did not submit any formal response. Respondent sent an informal communication to the Center on June 13, 2022. Accordingly, the Center notified the Parties that it would proceed to panel appointment on June 14, 2022.

The Center appointed Marina Perraki as the sole panelist in this matter on June 27, 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 is a leading global brokerage and financial technology company servicing the global financial markets that annually conducts over USD 300 trillion in transactions.

Per Complaint, Complainant's origins reach back to 1945, when founder B. Gerald Cantor created Cantor Fitzgerald. Since that time, and over the next half century, Cantor Fitzgerald expanded globally, providing trading services in a variety of markets and international locations. After September 11, 2001, Complainant continued its international growth and formed the BGC Partners voice brokerage business as part of the Cantor Group in 2004.

Complainant has approximately 5,000 employees in the United States of America, in more than 28 financial centers around the world and offices in dozens of major markets, including New York and London, as well as in Hong Kong, Tokyo, Singapore, Paris, Chicago, Dubai, Houston, Istanbul, Johannesburg, Mexico City, Nyon, Rio de Janeiro, Sao Paulo, Seoul, Sydney, and Toronto. Complainant holds a New York subsidiary with the corporate name BGC Financial, L.P. since 2005.

Complainant has used the BGC mark alone or with design or other word elements since as early as 2004. Complainant has spent significant sums advertising the BGC mark to the financial services industry throughout the world with the result that it has become well-known in the financial markets community.

Complainant owns a number of trademark registrations for BGC, including the United States of America trademark registration no. 3184410, BGC (word), filed on February 13, 2004, and registered on December 12, 2006, for services in international class 36.

Complainant also owns BGC domain name registrations, including <bgcpartners.com> registered on April 13, 2004.

The Domain Name was registered on January 19, 2021, and is used to host a website that purports to offer financial trading services and financial support for retail and institutional clients ("the Website"). On the Website appears false contact information, such as Complainant's address in New York City. The Website uses in various places identical text, images, and layout as that appearing on a third party website at "bitfx-traders.com" under the name of "BitFX Traders". According to the Website, its main business involves cryptocurrency mining and automated trading. Per Complaint, on information and belief, the Domain Name is being used as part of a sophisticated for profit scheme that may be fraudulent in nature.

5. Parties' Contentions

A. Complainant

Complainant asserts that it has established all three elements required under paragraph 4(a) of the Policy for the transfer of the Domain Name.

B. Respondent

The Respondent did not submit a formal Response. The Respondent sent an informal communication to the Center on June 13, 2022, stating "Hello please am just a web developer and I developed the website name in question last year for a client and am not affiliated to the owner so please if in any way the domain name

in question is registered on your company name, please kindly message the domain registrar for cancellation of the domain service or to transfer the domain to your company.”

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which Complainant has rights;
- (ii) 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.

A. Identical or Confusingly Similar

Complainant has demonstrated rights through registration and use of the BGC mark.

The Panel finds that the Domain Name is confusingly similar to the BGC trademark of Complainant.

The Domain Name incorporates the said trademark of Complainant in its entirety. This is sufficient to establish confusing similarity (WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.7).

The word “financial” which is added in the Domain Name does not alter the above ([WIPO Overview 3.0](#), section 1.8), neither does the hyphen between the BGC and the “financial” portion of the Domain Name.

The generic Top-Level Domain (“gTLD”) “.com” is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are generally required for technical reasons (*Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#)).

Complainant has established Policy, paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your 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) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are 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.

The Panel concludes that Respondent lacks rights or legitimate interests in respect of the Domain Name.

Respondent has not submitted a formal response to Complainant’s contentions and has not claimed any such rights or legitimate interests with respect to the Domain Name. As per the Complaint, Respondent was not authorized to register the Domain Name.

Respondent did not demonstrate prior to the notice of the dispute any use of the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services.

On the contrary, as Complainant demonstrates, the Domain Name leads to a website mimicking a third party website and purporting to offer financial services, mentioning the New York address of Complainant in the contact information and suggesting falsely that it is that of Complainant or of an affiliated entity of Complainant.

Per the Complaint, Respondent is not an affiliated entity or an authorized entity of Complainant and no agreement, express or otherwise, exists allowing Respondent to use Complainant's trademarks on the website at the Domain Name or in the Domain Name itself.

Furthermore, the nature of the Domain Name effectively impersonates or suggests sponsorship or endorsement by Complainant and so cannot constitute a fair use ([WIPO Overview 3.0](#), section 2.5.1).

The Panel finds that these circumstances do not confer upon Respondent any rights or legitimate interests in respect of the Domain Name.

Complainant has established Policy, paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation", are evidence of the registration and use of the Domain Name in bad faith:

(i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the Domain Name; or

(ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or

(iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or

(iv) that by using the Domain Name, Respondent has intentionally attempted to attract, for commercial gain, Internet users to Respondent's website or other online location, by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website or location or of a product or service on Respondent's website or location.

The Panel concludes that Respondent has registered and is using the Domain Name in bad faith. As per the Complaint, Complainant's BGC trademark is widely known in the financial services industry. Because the BGC mark had been used and registered at the time of the Domain Name registration by Respondent, the Panel finds it more likely than not that Respondent had Complainant's mark in mind when registering the Domain Name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#); *Parfums Christian Dior v. Javier Garcia Quintas and Christiandior.net*, WIPO Case No. [D2000-0226](#)).

As regards bad faith use of the Domain Name, Complainant has demonstrated that the Domain Name leads to the Website which purports to offer financial services and states Complainant's New York address as contact detail. The Domain Name operates by intentionally creating a likelihood of confusion with Complainant's trademark and business as to the source, sponsorship, affiliation, or endorsement of the

website to which it leads. This is indicative of bad faith registration and use (*Oculus VR, LLC v. Sean Lin*, WIPO Case No. [DCO2016-0034](#); [WIPO Overview 3.0](#), section 3.1.4).

The Panel considers the following factors: (i) the reputation of Complainant's mark in the relevant sector, (ii) the failure of Respondent to submit a formal response, (iii) the fact that the Website displays Complainant's New York address as contact detail, (iv) the fact that in the Whois information it appears that Respondent is based in Nigeria and not in New York, (v) the fact that the Website includes text and images that are similar to those of a third party website, and (vi) the fact that Respondent used a privacy shield service to conceal its identity.

Under these circumstances and on this record, the Panel finds that Respondent has registered and is using the Domain Name in bad faith.

Complainant has established Policy paragraph 4(a)(iii).

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 Domain Name, <bgc-financial.com>, be transferred to Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: July 11, 2022