

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. crea8 tek, crea8tek developers
Case No. D2022-4836

1. The Parties

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

The Respondent is crea8 tek, crea8tek developers, United States.

2. The Domain Name and Registrar

The disputed domain name <lplfinanceeurope.com> is registered with OwnRegistrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 19, 2022. On December 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 20, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 the Respondent of the Complaint, and the proceedings commenced on December 22, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 11, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 12, 2023.

The Center appointed Kathryn Lee as the sole panelist in this matter on January 20, 2023. 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

Founded in 1989, the Complainant is one of the largest independent broker-dealers in the United States. It has been publicly traded on the NASDAQ since 2010 and was added to the Fortune 500 list in 2021. The Complainant has over 4,800 employees with its primary offices in San Diego, California; Fort Mill, South Carolina; Boston, Massachusetts; and Austin, Texas. In 2021, the Complainant's net revenue was over USD 7.7 billion, and since June 30, 2021, the Complainant has provided brokerage and investment advisory services to more than 19,100 financial professionals and around 800 financial institutions, managing over USD 1.1 trillion in advisory and brokerage assets. The Complainant owns a number of trademark registrations for the marks LPL and LPL FINANCIAL including the following:

- LPL (United States Trademark Registration Number 1801076) registered on October 26, 1993;
- LPL FINANCIAL with a device element (United States Trademark Registration Number 3662425) registered on August 4, 2009;
- LPL (United Kingdom Trademark Number UK00003753607) registered on May 13, 2022;
- LPL FINANCIAL (United Kingdom Trademark Number UK00003753611) registered on May 13, 2022; and
- LPL (European Union Trademark Number 018653022) registered on May 26, 2022.

The Respondent appears to be an entity with an address in the United States.

The disputed domain name was registered on November 2, 2022, and, at the time of the filing of the Complaint, was not connected to any active web page. However, the Complainant provided evidence of prior use of the disputed domain name for a website impersonating the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to the LPL and LPL FINANCIAL trademarks in which the Complainant has rights. The Complainant explains that the disputed domain name incorporates its LPL trademark in its entirety which is sufficient to establish confusing similarity, and that the addition of "finance" and "europe" does not prevent a finding of confusing similarity. The Complainant also notes that the "lplfinance" portion of the disputed domain name is confusingly similar to its LPL FINANCIAL trademark given the visual, phonetic, and semantic similarities between "finance" and "financial".

The Complainant also contends that the Respondent has no rights or legitimate interests in the disputed domain name and confirms that it has not authorized or licensed rights to the Respondent in any respect. The Complainant further contends that the disputed domain name previously resolved to a website that essentially identical to the Complainant's own official website, claiming to be the Complainant's website, offering the same investment advisory services in Europe as those that the Complainant offers in the United States. The website listed a fake London address for the Complainant, and had a "Member FINRA/SIPC" notice, similar as on the Complainant's website, which indicates that the Complainant is a member of the United States Financial Industry Regulatory Authority and Securities Investor Protection Corporation. The Complainant asserts that the Respondent used the disputed domain name in order to mislead Internet users in furtherance of illegal activity, which can never confer rights or legitimate interests on a respondent.

Finally, the Complainant contends that the disputed domain name was registered and is used in bad faith. The Complainant explains that its LPL and LPL FINANCIAL trademarks are inherently distinctive and that

the Complainant has been in business for over twenty years during which time these trademarks have acquired considerable reputation and goodwill. The Complainant further states that the Respondent's knowledge of the Complainant can be inferred by the creation of a cloned copy of the Complainant's official website at the disputed domain name, and that the Respondent registered the disputed domain name in a deliberate attempt to create a misleading impression of association with the Complainant in order to mislead Internet users. The Complainant also asserts that the Respondent's use of the disputed domain name is fraudulent in nature since it is aimed at misleading unsuspecting Internet users into disclosing their personal identifying information and banking details to register and subscribe to seemingly fictitious investment advisory services, which may be used to commit further acts of fraud. Further, the Complaint argues that although the disputed domain name is not currently connected to any website, the current passive holding of a domain name does not prevent a finding of bad faith use.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Complainant has demonstrated with supporting evidence that it has rights to the trademarks LPL and LPL FINANCIAL. As for the disputed domain name, it contains the LPL mark along with the term "finance" and "europe". According to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 1.7, a domain name is considered confusingly similar to a trademark if it "incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name". In this regard, the LPL mark is readily recognizable within the disputed domain name and as such, the disputed domain name is confusingly similar to the LPL trademark. Further, the "lplfinance" portion of the disputed domain name is confusingly similar to the Complainant's LPL FINANCIAL trademark given that the terms "finance" and "financial" are very similar in terms of appearance, pronunciation, and meaning. The additional term "europe" does not prevent a finding of confusing similarity (see [WIPO Overview 3.0](#), section 1.8).

For the reasons mentioned above, the Panel finds that the first element has been established.

B. Rights or Legitimate Interests

On the basis of the present record, the Panel finds that the Complainant has made the required allegations to support a *prima facie* case showing that the Respondent has no rights or legitimate interests in the disputed domain name. Once such a *prima facie* case has been established, the burden of production shifts to the Respondent to demonstrate its rights or legitimate interests in the disputed domain name, with the burden of proof always remaining with the Complainant. However, the Respondent in this case has chosen to file no Response to these assertions by the Complainant, and there is no evidence or allegation in the record that would warrant a finding in favor of the Respondent on this point.

Besides, a respondent's use of a domain name is not considered "fair" if it falsely suggests affiliation with the trademark owner. See [WIPO Overview 3.0](#), section 2.5.1. Here, the dominant element of the disputed domain name corresponds exactly to the Complainant's trademark, and the additional term "europe" suggests that the disputed domain name belongs to the Complainant's Europe office, and carries a risk of implied affiliation, particularly given the relation of the term "finance" to the Complainant's services.

For the reasons provided above, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name, and that the second element has been established.

C. Registered and Used in Bad Faith

The Panel finds that there is strong and clear evidence to find bad faith in this case.

The registration of the disputed domain name which is confusingly similar to the Complainant's well-known trademarks LPL and LPL FINANCIAL, by an entity which is not affiliated with the Complainant, creates a presumption of bad faith. See [WIPO Overview 3.0](#), section 3.1.4. And based on the Respondent's prior reproduction of essentially an exact copy of the Complainant's website at the disputed domain name, it is clear that the Respondent knew of the Complainant and its trademarks at the time of the registration of the disputed domain name and that it was targeting the Complainant's trademarks.

The website at the disputed domain name falsely represented itself as the Complainant's Europe office and solicited visitors to sign up for an account by disclosing personal identifying information such as name, telephone number, and email address. Through such use of the disputed domain name, the Respondent not only intended to create a likelihood of confusion among Internet users, but is also likely to have engaged in fraudulent activity using the personal information provided by Internet users. The use of a domain name for *per se* illegitimate activity is manifestly considered evidence of bad faith. See [WIPO Overview 3.0](#), section 3.1.4.

For the reasons given above, the Panel finds that the third element has been established.

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, <lplfinanceeurope.com>, be transferred to the Complainant.

/Kathryn Lee/

Kathryn Lee

Sole Panelist

Date: February 3, 2023