

ADMINISTRATIVE PANEL DECISION

BlockFi Inc. v. Andriy Kovalenko

Case No. D2023-0616

1. The Parties

The Complainant is BlockFi Inc., United States of America (“United States”), represented by Haynes and Boone, LLP, United States.

The Respondent is Andriy Kovalenko, Russian Federation.

2. The Domain Name and Registrar

The disputed domain name <walletblockfi.com> 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 10, 2023. On February 10, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 10, 2023, 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 (Privacy Service Provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 14, 2023, 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 18, 2023.

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 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 12, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 13, 2023.

The Center appointed Steven A. Maier as the sole panelist in this matter on March 16, 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

The Complainant is a corporation organized under the laws of Delaware, United States. It is a financial services provider specialising in cryptocurrencies.

The Complainant is the owner of United States trademark registration number 5989814 for the word mark BLOCKFI, registered on February 18, 2020, in International Classes 36 and 42.

The Complainant operates a website at "www.blockfi.com". The website features the BLOCKFI trademark together with a logo and includes images of trading information on a cellphone screen.

The disputed domain name was registered on July 4, 2022.

The Complainant provides evidence that, on July 15, 2022, the disputed domain name resolved to a website which included the statement "Get up to \$250 in Bitcoin when you buy crypto or fund your account with BlockFi." The website included an image of a cellphone screen which appeared to feature the Complainant's trademark and logo and images similar to those used on the Complainant's own website.

The disputed domain name does not currently resolve to any active website.

5. Parties' Contentions

A. Complainant

The Complainant states that it was founded in 2017 and manages assets in excess of USD 2 billion under the BLOCKFI mark. It exhibits media coverage and evidence of its social media presence.

The Complainant submits that the disputed domain name incorporates the whole of its BLOCKFI trademark and is confusingly similar to that trademark.

The Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its BLOCKFI trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name. The Complainant contends, in particular, that the use of a domain name to impersonate a trademark owner cannot constitute *bona fide* use.

The Complainant submits that the disputed domain name was registered and has been used in bad faith. It contends that the mark BLOCKFI is a coined term and that it is implausible that the Respondent registered the disputed domain name for any reason other than to impersonate the Complainant and to benefit from confusion with its trademark. The Complainant submits that the Respondent has used the disputed domain name, together with copyright protected content taken from its own website, to divert customers to the Respondent's website by falsely misrepresenting an association with the Complainant. The Complainant adds that, while the disputed domain name is currently inactive, the Respondent is liable to use it for similar activities again in the future.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (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 in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it is the owner of registered trademark rights for the mark BLOCKFI. The disputed domain name includes that trademark, preceded by the term "wallet", which does not prevent the trademark from being recognizable within the disputed domain name. The Panel therefore finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain name, or evidence of rights or legitimate interests on its part in the disputed domain name, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. The Panel's findings below, as to the Respondent's use of the disputed domain name to impersonate the Complainant, cannot give rise to rights or legitimate interests on the Respondent's part. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered and Used in Bad Faith

The Panel finds the Complainant's trademark BLOCKFI to be distinctive in the field of cryptocurrency and accepts the Complainant's submission that there can be no plausible reason for the Respondent to have registered the disputed domain name otherwise than to misrepresent an association with the Complainant. Furthermore, based on the evidence of the Respondent's website as at July 2022, the Panel finds that the Respondent used the disputed domain name, together with content taken from the Complainant's website, to impersonate the Complainant. The Panel finds, therefore, that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademarks as to the source, sponsorship, affiliation, or endorsement of its website or of a product or service on its website (paragraph 4(b)(iv) of the Policy).

The fact that the disputed domain name is currently inactive is no bar to a finding of bad faith in all the circumstances of the case (see *e.g. Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#).) Furthermore, the Panel accepts the Complainant submission that the Respondent is liable to use the disputed domain name in the future for similarly dishonest purposes as previously.

The Panel therefore finds that the disputed domain name has been registered and is being used in bad faith.

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

/Steven A. Maier/

Steven A. Maier

Sole Panelist

Date: March 28, 2023