

ADMINISTRATIVE PANEL DECISION

BlockFi Inc. v. JANAINA DO ESPIRITO SANTO ALMEIDA

Case No. D2023-0930

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 JANAINA DO ESPIRITO SANTO ALMEIDA, Brazil.

2. The Domain Names and Registrar

The disputed domain names <blockfi-app.com>, <www-app-blockfi.com>, <www-blockfi.com>, and <www-blokfi.com> are registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 2, 2023. On March 2, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On March 2, 2023, the Registrar transmitted by email to the Center its verification response, disclosing registrant and contact information for the disputed domain names, which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint. The Registrar also informed that the registration agreement is in Portuguese. The Center sent an email communication to the Complainant on March 7, 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 March 11, 2023. The Complainant submitted an amendment to the Complaint, requesting English to be the language of proceeding in March 16, 2023.

The Center verified that the Complaint, together with the amendment to the Complaint and 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 20, 2023. In accordance with the Rules, paragraph 5, the due date for Response was April 9, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 25, 2023.

The Center appointed Gonalo M. C. Da Cunha Ferreira as the sole panelist in this matter on May 2, 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, BlockFi Inc. (“BlockFi”), is a financial services company founded in 2017 dedicated to building a bridge between cryptocurrencies and traditional financial, and wealth management products. BlockFi’s platform manages more than USD 2 billion in assets and is backed by industry-leading investors including Valar Ventures, Morgan Creek Capital Management, Coinbase Ventures, Galaxy Digital, Susquehanna Government Products, and Winklevoss Capital.

The Complainant has been referenced by several high-profile media outlets since its start in 2017.

The Complainant owns the United States Trademark Registration No. 5989814 for BLOCKFI on international classes 36 and 42 registered on February 18, 2020.

The Complainant also owns a domain name <blockfi.com> registered on September 29, 2015.

The disputed domain name <www-blockfi.com> was registered on October 9, 2022; the disputed domain names <www-app-blockfi.com> and <www-blokfi.com> on October 19, 2022; and the disputed domain name <blockfi-app.com> on October 24, 2022.

According to information provided in the Complaint, the disputed domain names <www-app-blockfi.com>, <www-blokfi.com> and <blockfi-app.com> previously resolved to websites that mimicked the look and feel of a login portal to the Complainant’s services, including the incorporation of the Complainant’s stylized logo. By the time of this decision, the disputed domain names <www-app-blockfi.com> and <www-blokfi.com> resolved to inactive websites and the others resolve to deceptive websites.

5. Parties’ Contentions

A. Complainant

The Complainant claims that:

- a) the disputed domain names are identical confusingly similar to its own trademark registration.
- b) the disputed domain names incorporate the Complainant’s BLOCKFI Mark in its entirety, or a common misspelling of the BLOCKFI Mark, with the addition of the terms “app”, “www”, and/or hyphens as well as the generic Top-Level Domain (“gTLD”) “.com”.
- c) according to the Policy, the incorporation of a complainant’s trademark in its entirety, or in abbreviated form, or intentionally misspelled in the disputed domain names, and whether alone or combined with terms and gTLDs is insufficient to distinguish the disputed domain names from the complainant’s mark.
- d) the Respondent completely lacks rights or legitimate interests in the disputed domain names once the Respondent is neither affiliated with the Complainant nor has it been authorized to use the BLOCKFI Mark in any manner.

- e) there is no evidence to suggest that the Respondent is commonly known by the disputed domain names, or that the Respondent was commonly or legitimately known as “Blockfi,” or any variation thereof, prior to the registration of the disputed domain names.
- f) the Respondent incorporates the BLOCKFI Mark in its entirety in the disputed domain names and the disputed domain names <blockfi-app.com>, <www-app-blockfi.com>, and <www-blokfi.com> previously resolved to websites that impersonated the Complainant, including through the use of the Complainant’s stylized logo BLOCKFI.
- g) the Respondent was capitalizing on the confusing similarity of the disputed domain names to the Complainant’s BLOCKFI Mark in order to pass itself off as the Complainant, seeking to benefit from Internet traffic intended for the Complainant.
- h) do not currently resolve at active websites, current non-use does not preclude a finding that the Respondent lacks any rights or legitimate interests in the disputed domain names.
- i) the Respondent registered and is using the disputed domain names in bad faith.

B. Respondent

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

6. Discussion and Findings

Language

The language of the registration agreement for each disputed domain name was in the Portuguese language but the Complainant requested the proceedings to be conducted in English.

Pursuant to paragraph 11 of the UDRP Rules, unless otherwise agreed by the parties, the default language of the proceeding is the language of the registration agreement, subject to the authority of the panel to determine otherwise.

Paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include the language/script of the domain name particularly where the same as that of the complainant’s mark.

Facing the circumstances of this case including the absence of a reply from the Respondent, the Panel determines that English is the language of proceedings.

Substantive Matters

Paragraph 15(a) of the Rules instructs the Panel to decide the Complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the Complainant must prove each of the following:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

A. Identical or Confusingly Similar

The disputed domain names <blockfi-app.com>, <www-app-blockfi.com>, and <www-blockfi.com> incorporate the BLOCKFI trademark in its entirety. The disputed domain name <www-blokfi.com> incorporates a misspelling of the BLOCKFI trademark. As the trademark is clearly recognizable within the disputed domain names, the addition of the terms “app”, “www”, and/or hyphens does not prevent a finding of confusing similarity.

Accordingly, the Panel finds that the Complainant has satisfied paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names. As highlighted in several previous UDRP decisions, in such a case the burden of production shifts to the Respondent to rebut the evidence (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 2.1). The Respondent has no connection to or affiliation with the Complainant and the Complainant has not licensed nor given its consent to the Respondent to use or register any domain name incorporating the Complainant’s trademark.

Additionally, the Panel finds that the nature of the disputed domain names, incorporating the Complainant’s trademark in its entirety, or a common misspelling of the BLOCKFI Mark, just with the addition of the terms “app”, “www”, and/or hyphens as well as the non-distinctive Top-Level Domain “.com” points to an intention to confuse Internet users seeking for or expecting the Complainant.

In this sense, the Respondent does not appear to make any legitimate noncommercial or fair use of the disputed domain names, nor any use in connection with a *bona fide* offering of goods or services. Based on the available record, the disputed domain names currently resolve to websites displaying a warning that the site is deceptive.

The Respondent did not submit a response and has failed to invoke any circumstance which could have demonstrated rights or legitimate interests in the disputed domain names under paragraph 4(c) of the Policy.

The Panel finds that the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel, based on the evidence presented, accepts and agrees with the Complainant’s contentions that the disputed domain names were registered in bad faith.

The disputed domain names <blockfi-app.com>, <www-app-blockfi.com>, and <www-blokfi.com> previously resolved to websites that impersonated the Complainant, including through the use of the Complainant’s stylized logo BLOCKFI. The Panel finds that the Respondent has registered the disputed domain names to attract, for commercial gain, Internet users to its websites by creating a likelihood of confusion with the Complainant’s trademark.

Although some disputed domain names do not currently resolve at active websites, the Respondent could re-direct the disputed domain names to active websites at any point and resume its deceptive practices. See *Fenix International Limited v. WhoisGuard Protected, WhoisGuard, Inc./ Samuel Walton*, WIPO Case No. [D2020-3131](#). The current non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. See section 3.3 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith. Therefore, the Complainant has satisfied 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 names <blockfi-app.com>, <www-app-blockfi.com>, <www-blockfi.com>, and <www-blokfi.com> be transferred to the Complainant.

/Gonçalo M. C. Da Cunha Ferreira/

Gonçalo M. C. Da Cunha Ferreira

Sole Panelist

Date: May 16, 2023