

ADMINISTRATIVE PANEL DECISION

Phoenix Life Limited v. Lucy Roberts, Phoenixgroup
Case No. D2023-2694

1. The Parties

The Complainant is Phoenix Life Limited, United Kingdom, represented by Pinsent Masons LLP, United Kingdom.

The Respondent is Lucy Roberts, Phoenixgroup, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <thephoenixgroupplc.com> is registered with Google LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 22, 2023. On June 26, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 26, 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 (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on June 27, 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 June 27, 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 July 13, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 2, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 8, 2023.

The Center appointed George R. F. Souter as the sole panelist in this matter on August 21, 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 subsidiary of Phoenix Group Holdings Plc, which is one of the largest long-term savings and retirement businesses in United Kingdom. The trademark PHOENIX has been in use in connection with insurance services since the 18th century. Its proprietor, the Complainant, is a major producer of insurance services, as of 2021 administering the assets of circa 12 million customers.

The Complainant has provided the Panel with a schedule of considerable registrations of its PHOENIX trademark internationally, including United Kingdom Registration No. 00001306768, registered on October 5, 1990.

The disputed domain name was registered on June 15, 2023. Although the disputed domain name is not in use in connection with an offering of goods or services, evidence has been provided of it being used to send emails impersonating the Complainant's holding company for what the Panel believes to be clear fraudulent purposes.

5. Parties' Contentions

A. Complainant

The Complainant alleges that the disputed domain name is confusingly similar to its PHOENIX trademark, containing its PHOENIX trademark in its entirety, together with merely descriptive and non-distinctive additional matter.

The Complainant alleges that the Respondent lacks rights or legitimate interests in the disputed domain name, in particular that the Respondent is not generally known by the disputed domain name, and that the Complainant has never granted permission to the Respondent to use its PHOENIX trademark in connection with the registration of a domain name, or otherwise.

The Complainant alleges that the disputed domain name was registered in bad faith, and has been used in bad faith in connection with attempting to impersonate the Complainant in a communication to the Complainant's employees, for what appears to be clearly fraudulent purposes.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusing Similarity

The Panel finds that the Complainant has rights to the trademark PHOENIX for the purposes of these proceedings under the Policy.

It is well established in prior decisions under the UDRP, with which the Panel agrees, that a generic Top-Level Domain ("gTLD") may generally be disregarded when comparing a trademark with a disputed domain name. The Panel finds that the gTLD ".com" may be disregarded in the circumstances of the present case.

The Complainant's PHOENIX trademark is instantly recognizable in the disputed domain name, rendering the disputed domain name confusingly similar to the Complainant's trademark. The additional elements, "the", "group" and "plc", do not prevent from this finding.

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

B. Rights or Legitimate Interests

The Panel considers that the Complainant's allegations under section 5 above are sufficient to provide a *prima facie* case under this heading, and the burden of production of evidence shifts to the Respondent.

It is the consensus view of UDRP panels, with which the Panel agrees, that a *prima facie* case advanced by the complainant will generally be sufficient for the complainant to be deemed to have satisfied the requirement of paragraph 4(a)(ii) of the Policy, provided the respondent does not come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name.

The Respondent did not advance any claim of rights or legitimate interests in the disputed domain name to rebut this *prima facie* case.

The composition of the disputed domain name carries a risk of implied affiliation with the Complainant. Moreover, the disputed domain name was used to send emails impersonating the Complainant's holding company. Such use can never confer rights or legitimate interests on the Respondent.

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

C. Registered and Used in Bad Faith

The Panel is of the view that the finding that the Respondent has no rights or legitimate interests in the disputed domain name can lead, in appropriate circumstances, to a finding of registration of the disputed domain name in bad faith. The circumstances of the present case, in which the Panel regards it as self-evident that the Complainant's prior registered PHOENIX trademark was deliberately targeted in the disputed domain name, are such that the Panel concludes that the disputed domain name was registered in bad faith, and so finds.

The circumstances of the present case, including the reputation of the Complainant's trademark, the composition of the disputed domain name, the lack of response from the Respondent, and the implausibility of any good faith use to which the disputed domain name may be put, aggravated by the Respondent's attempt to send fraudulent emails impersonating the Complainant's holding company, are such that the Panel considers that a finding of use in bad faith is clearly appropriate in connection with the disputed domain name according to paragraph 4(b)(iv) of the Policy, and so finds.

Accordingly, the Panel finds that the Complainant has satisfied the requirements of 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 <thephoenixgroupplc.com> be transferred to the Complainant.

/George R. F. Souter/

George R. F. Souter

Sole Panelist

Date: September 4, 2023