

ADMINISTRATIVE PANEL DECISION

Latham & Watkins LLP v. Xing Long Luo
Case No. D2023-4033

1. The Parties

The Complainant is Latham & Watkins LLP, United States of America (“U.S.”), internally represented.

The Respondent is Xing Long Luo, China.

2. The Domain Name and Registrar

The disputed domain name <lwlawyer.com> is registered with DropCatch.com LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 27, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 28, 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 GDPR Privacy, Privacy service provided by NameBright*) and contact information in the Complaint.

The Center sent an email communication to the Complainant on September 29, 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 the same date.

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 October 4, 2023. In accordance with the Rules, paragraph 5, the due date for Response was October 24, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 25, 2023.

The Center appointed Adam Taylor as the sole panelist in this matter on October 30, 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 1934, the Complainant is an international law firm with over 3,400 attorneys located in thirty offices in fourteen different countries. The Complainant offers its services under the mark LATHAM & WATKINS. The Complainant also uses logo incorporating the term “LW”, including on social media.

The Complainant owns various trade marks for LATHAM & WATKINS, including U.S. trade mark No. 2413795, registered on December 19, 2000, in class 42.

The Complainant operates a website at “www.lw.com”. The Complainant’s staff also uses this domain name for email address.

The disputed domain name was registered on June 7, 2023.

There is no evidence or indication that the Respondent has used the disputed domain name for an active website.

5. Parties’ Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

Under the Policy, the Complainant is required to prove on the balance of probabilities that:

- the disputed domain name is identical or confusingly similar to a trade mark in which the Complainant has rights;
- the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant’s trade mark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (“[WIPO Overview 3.0](#)”), section 1.7.

Based on the available record, the Panel finds the Complainant has established unregistered trade mark or service mark rights in the mark LW for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3.

As mentioned in section 4 above, the Complainant has used the mark LW as a logo and, also, within the domain name <lw.com>, which the Complainant uses for its website and email. In *Latham & Watkins LLP v. nathaniel webber*, WIPO Case No. [D2023-1964](#), the panel stated that the Complainant had “used the LW Mark extensively across its significant digital media presence in association with its legal and other services” and that “[t]hird-party publications have also referenced Complainant using the LW Mark, as evidenced by Complainant.” Furthermore, the Respondent has not appeared in this proceeding to dispute the Complainant’s assertions of unregistered rights in the LW mark.

The Panel finds the entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

While the addition of other terms (here, “lawyer”) may bear on assessment of the second and third elements, the Panel finds the addition of such term does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

While the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a *prima facie* case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the record, the Panel finds the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

Paragraph 4(c) of the Policy gives examples of circumstances which, if proved, suffice to demonstrate that a respondent possesses rights or legitimate interests.

As to paragraph 4(c)(i) of the Policy, the disputed domain name is currently inactive and therefore not being used for a *bona fide* offering of goods or services. Nor is there any evidence that it ever has been.

Nor is there any evidence that paragraphs 4(c)(ii) or (iii) of the Policy are relevant in the circumstances of this case.

Based on the available record, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

Panels have found that the non-use of a domain name (including a blank or “coming soon” page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel considers that the following circumstances are indicative of passive holding in bad faith:

1. the distinctiveness and fame of the Complainant’s mark;
2. the failure of the Respondent to submit a response or to provide any evidence of actual or contemplated good faith use; and
3. the implausibility of any good faith use to which the disputed domain name may be put.

In particular, the Panel considers that the combination of the acronym “lw” plus the term “lawyer” is strongly suggestive of the Complainant, and notes that the Respondent has not appeared in this proceeding to deny the connection or put forward any legitimate explanation for its selection of the disputed domain name.

Based on the available record, the Panel finds the third element of the Policy 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, <lwlawyer.com> be transferred to the Complainant.

/Adam Taylor/

Adam Taylor

Sole Panelist

Date: November 13, 2023