

## ADMINISTRATIVE PANEL DECISION

### Phoenix Group Management Services Limited v. Aaron Gorr Case No. D2024-2856

#### 1. The Parties

The Complainant is Phoenix Group Management Services Limited, United Kingdom, represented by Freeths LLP, United Kingdom.

The Respondent is Aaron Gorr, Ukraine. <sup>1</sup>

#### 2. The Domain Name and Registrar

The disputed domain name <britannicfinance.info> is registered with GoDaddy.com, LLC (the “Registrar”).

#### 3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 12, 2024. On July 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 15, 2024, 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 (Registration Private, Domains By Proxy, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on July 16, 2024, 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 amendment to the Complaint on July 17, 2024.

The Center verified that the Complaint together with the amendment to 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”).

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<sup>1</sup>The Panel notes that the Respondent appears to have provided false contact details, e.g., the Registrar’s verification response indicated that the Respondent’s city was “Washington”, the Respondent’s State/Province was “SmallTrue”, and the Respondent’s phone was a United Kingdom number (i.e., +44 [...]).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on July 18, 2024. In accordance with the Rules, paragraph 5, the due date for Response was August 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on August 8, 2024.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on August 14, 2024. 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, Phoenix Group Management Services Limited, is a company registered under the laws of England with company number 03588063 and having its registered office in Birmingham, England.

The Complainant is one of the largest long-term savings and retirement businesses in the United Kingdom ("UK") servicing 12 million customers under their pensions, savings and life insurance brands, including the BRITANNIC brand.

The Complainant is the proprietor of UK and European Union ("EU") trade mark registrations for BRITANNIC including:

UK Trademark Registration No. UK00002352992 BRITANNIC, registered on May 28, 2004, in class 35;

EU Trademark Registration No. 002196491 BRITANNIC, registered on June 17, 2003, in classes 16, 35 and 36; and

UK Trademark Registration No. UK00002267924 BRITANNIC, registered on October 19, 2001, in classes 16, 35 and 36.

The disputed domain name <britannicfinance.info> was registered on December 22, 2023, resolves to an inactive webpage and is parked free as a courtesy with GoDaddy.com with the indication "get this domain". An email address has also been created through the disputed domain name to send emails.

#### **5. Parties' Contentions**

##### **A. Complainant**

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

Notably, the Complainant contends that its BRITANNIC trademarks have a reputation in the UK and in the EU, as a result of the substantial and sustained use made of them by the Complainant. In addition, the Complainant also benefits from rights in passing off, in the UK, which prevent one trader from misrepresenting services as being the services of another, as a consequence of the substantial goodwill it has generated and owns in the BRITANNIC name.

It is inevitable that Internet users will be confused into believing that the disputed domain name has some form of association with the Complainant.

The Complainant has not licensed or otherwise authorized the Respondent to use the BRITANNIC name or trademark.

The Respondent therefore has no right or legitimate interests in the disputed domain name, nor any rights in the Complainant's trademarks, and is not associated or connected with the Complainant whatsoever.

The Complainant has been made aware that an email address associated with the disputed domain name is being used in a fraudulent manner.

Even if a consumer perceives something amiss before taking action in relation to the disputed domain name, the distinctive character and reputation of the Complainant's trademarks are harmed by association in any event. In all the circumstances there is a detrimental impact on the reputation and commercial activities of the Complainant.

Finally, the Complainant requests the Panel to issue a decision ordering the transfer of the disputed domain name to the Complainant.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **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 trademark and the disputed domain name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, ("[WIPO Overview 3.0](#)"), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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.

Although the addition of other terms, here, "finance", 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.

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.

Although 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 difficult 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 (although the burden of proof always remains on the complainant). 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 available 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.

Panels have held that the use of a domain name for illegal activity here, claimed passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Panel finds the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

The Panel is satisfied that the Respondent must have been aware of the Complainant's trademark BRITANNIC mentioned in section 4 above (Factual Background) when it registered the disputed domain name on December 22, 2023.

In accordance with section 3.1.4 of [WIPO Overview 3.0](#), the Panel considers that the inclusion of the Complainant's BRITANNIC trademark in the disputed domain name creates a presumption of bad faith registration. The addition of the term "finance" in the disputed domain name tends to strengthen the confusion between the Complainant's trademark and the disputed domain name, as it refers to the Complainant's business.

The Respondent, when registering the disputed domain name, has targeted the Complainant's business and its trademark BRITANNIC with the intention to confuse Internet users and capitalize on the fame of the Complainant's trademark for its own benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name is also a significant factor to consider that the disputed domain name was registered in bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)).

Panels have held that the use of a domain name for illegal activity here, claimed passing off, or other types of fraud constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy and that the requirements of paragraph 4(a)(iii) of the Policy have been fulfilled.

The Panel finds that the Complainant has established the third element 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 <britannicfinance.info> be transferred to the Complainant.

*/Miguel B. O'Farrell/*

**Miguel B. O'Farrell**

Sole Panelist

Date: August 29, 2024