

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Richard Anthony
Case No. D2022-3033

1. The Parties

Complainant is LPL Financial LLC, United States of America (“United States”), represented by Hogan Lovells (Paris) LLP, France.

Respondent is Richard Anthony, Nigeria.

2. The Domain Name and Registrar

The disputed domain name <lplsfinancial.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 17, 2022. On August 17, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified Respondent of the Complaint, and the proceedings commenced on August 24, 2022. In accordance with the Rules, paragraph 5, the due date for Response was September 13, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on September 14, 2022.

The Center appointed Stephanie G. Hartung as the sole panelist in this matter on September 19, 2022. 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

Complainant is a company organized under the laws of the United States that is active in the retail financial advice market.

Complainant has provided evidence that it is the registered owner of numerous trademarks relating to its company name and brand as “LPL” or “LPL FINANCIAL”, respectively, including, but not limited, to the following:

- Word mark LPL, United States Patent and Trademark Office (“USPTO”), registration number: 1801076, registration date October 26, 1993, status: active;
- Word/device mark LPL FINANCIAL, USPTO, registration number: 3662425, registration date: August 4, 2009, status: active.

Moreover, Complainant has substantiated to be the registered owner of various domain names reflecting the LPL trademark, *inter alia*, since 1994 the domain name <lpl.com> which resolves to Complainant’s official website at “www.lpl.com”, where Complainant promotes its services and related products in the retail financial advice market.

Respondent, according to the Whois information for the disputed domain name, is a resident of Nigeria, though the postal address submitted by Respondent when registering the disputed domain name on June 18, 2022, points to the United States. The disputed domain name resolves to a website at “www.lplsfinancial.com”, which promotes a cryptocurrency, binary options, stocks & commodities and real estate investment platform, thereby showing in the website’s footer Complainant’s official office address in San Diego, United States.

Complainant requests that the disputed domain name be transferred to Complainant.

5. Parties’ Contentions

A. Complainant

Complainant contends to be a leader in the retail financial advice market and the largest independent broker-dealer in the United States with roots going back to 1989, with nowadays over 6,000 employees and its primary offices in San Diego, California. Over the years, Complainant has made substantial investments to develop a strong online presence through various websites and by being active on various social media platforms.

Complainant submits that the disputed domain name is confusingly similar to its LPL and LPL FINANCIAL trademarks, as it comprises them in their entirety – in particular the LPL trademark as the leading element of the disputed domain name – and differing from the LPL FINANCIAL trademark solely by the addition of the letter “s”. Moreover, Complainant asserts that Respondent has no rights or legitimate interests in respect of the disputed domain name since (1) Respondent has not received any license or other authorization of any kind to make use of Complainant’s trademarks in a domain name or otherwise, and (2) the disputed domain name resolves to a website that holds itself out as a cryptocurrency, binary options, stocks & commodities and real estate investment platform, thereby showing in the website’s footer Complainant’s official office address in San Diego, United States, the resulting impression being that Respondent is holding itself out as Complainant, or as being affiliated with Complainant, in order to pass itself off as a *bona fide* provider of financial services. Finally, Complainant argues that Respondent has registered and is using the disputed domain name in bad faith since (1) Complainant’s LPL and LPL FINANCIAL trademarks are well-known in connection with Complainant’s financial advisory services, (2) Respondent’s knowledge of Complainant and its trademarks may be readily inferred from Respondent’s use of Complainant’s San Diego office address on the website to which the disputed domain name resolves, and (3) Respondent is using the disputed domain name in the furtherance of an illegitimate scheme, aimed at misleading Internet users into subscribing to

seemingly fictitious financial advisory services.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Under paragraph 4(a) of the Policy, Complainant carries the burden of proving:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) that the disputed domain name has been registered and is being used in bad faith.

Respondent's default in the case at hand does not automatically result in a decision in favor of Complainant, however, paragraph 5(f) of the Rules provides that if Respondent does not submit a response, in the absence of exceptional circumstances, the Panel shall decide the dispute solely based upon the Complaint. Further, according to paragraph 14(b) of the Rules, the Panel may draw such inferences from Respondent's failure to submit a Response as it considers appropriate.

A. Identical or Confusingly Similar

The Panel concludes that the disputed domain name is confusingly similar to the LPL and LPL FINANCIAL trademarks in which Complainant has rights.

The disputed domain name incorporates both of Complainant's LPL and LPL FINANCIAL trademarks in their entirety. Numerous UDRP panels have recognized that where a domain name incorporates a trademark in its entirety, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that trademark (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.7). Moreover, it has been held in many UDRP decisions and has become a consensus view among panelists (see [WIPO Overview 3.0](#), section 1.8), that the addition of other terms (whether *e.g.* descriptive or otherwise) would not prevent the finding of confusing similarity under the first element of the UDRP. Accordingly, the addition of the term "financial" (which directly refers to Complainant's core business) in the disputed domain name to Complainant's LPL word trademark, thereby including both word elements of Complainant's LPL FINANCIAL trademark, does not prevent the finding of confusing similarity arising from the incorporation of Complainant's entire LPL trademark in the disputed domain name. This is true even in light of the fact that the disputed domain name also comprises an additional letter "s" inserted between the terms "lpl" and "financial", thus constituting a sort of typo-squatted version of Complainant's LPL FINANCIAL trademark. Typo-squatted domain names are intended to be confusing so that Internet users, who unwittingly make common type errors, will enter the typo-squatted domain name instead of the correct spelled trademark; UDRP panels, therefore, widely agree that domain names consisting of an intentional misspelling of a trademark are considered to be confusingly similar to the relevant trademark (see [WIPO Overview 3.0](#), section 1.9).

Therefore, Complainant has established the first element under the Policy as set forth by paragraph 4(a)(i).

B. Rights or Legitimate Interests

The Panel is further convinced on the basis of Complainant's undisputed contentions that Respondent has not made use of the disputed domain name in connection with a *bona fide* offering of goods or services, nor has Respondent been commonly known by the disputed domain name, nor can it be found that Respondent has made a legitimate noncommercial or fair use thereof without intent for commercial gain.

Respondent has neither been granted a license nor has it been otherwise authorized by Complainant to use its LPL and LPL FINANCIAL trademarks, either as a domain name or in any other way. Also, there is no reason to believe that Respondent's name somehow corresponds with the disputed domain name, and Respondent does not appear to have any trademark rights associated with the term "LPL" on its own. Finally, the disputed domain name resolves to a commercially active website at "www.lplsfinancial.com" which offers a variety of financial services at least confusingly similar to those offered by Complainant, and thereby showing in the website's footer Complainant's official office address in San Diego, United States. Such use of the disputed domain name neither qualifies as *bona fide* nor as legitimate noncommercial or fair use within the meaning of paragraph 4(c) of the Policy.

Accordingly, Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name. Now, the burden of production shifts to Respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the disputed domain name (see [WIPO Overview 3.0](#), Section 2.1). Given that Respondent has defaulted, it has not met that burden.

The Panel, therefore, finds that Respondent has no rights or legitimate interests in respect of the disputed domain name and that Complainant has also satisfied paragraph 4(a)(ii) and, thus, the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel finally holds that the disputed domain name was registered and is being used by Respondent in bad faith.

The circumstances to this case leave no reasonable doubt that Respondent was fully aware of Complainant's business and its rights in the LPL and LPL FINANCIAL trademarks when registering the disputed domain name and that the latter clearly is directed thereto. Moreover, using the disputed domain name to run a website offering services that are at least confusingly similar to those of Complainant, and thereby showing in the website's footer Complainant's official office address in San Diego, United States, is a clear indication that Respondent intentionally attempted to attract, for commercial gain, Internet users to its own website by creating a likelihood of confusing with Complainant's LPL and LPL FINANCIAL trademarks as to the source, sponsorship, affiliation or endorsement of Respondent's website. Such circumstances are evidence of registration and use of the disputed domain name in bad faith within the meaning of paragraph 4(b)(iv) of the Policy.

In this context, it also carries weight in the eyes of the Panel that Respondent obviously provided false or incomplete contact information in the Whois register for the disputed domain name since, according to the Case File, the Center did not succeed to formally enter the postal address provided for Respondent into the DHL system for placing postal courier orders, which is why the Written Notice on the Notification of Complaint dated August 24, 2022, could neither be sent nor delivered to Respondent. This fact at least throws a light on Respondent's behavior which supports the Panel's bad faith finding.

Therefore, the Panel concludes that Complainant has also satisfied the third element under the Policy as set forth by paragraph 4(a)(iii).

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 <lplsfinancial.com> be transferred to Complainant.

/Stephanie G. Hartung/

Stephanie G. Hartung

Sole Panelist

Date: September 27, 2022