

ADMINISTRATIVE PANEL DECISION

BlockFi Inc. v. morgan sarah, Holland Broadbridge
Case No. D2022-4538

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 morgan sarah, Holland Broadbridge, United Kingdom.

2. The Domain Name and Registrar

The disputed domain name <blockfi-trades.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 29, 2022. On November 29, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On November 29, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name, which differed from the named Respondent (Domain Administrator, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 1, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On December 1, 2022, the Center received an informal communication from the Respondent. The Complainant filed an amended Complaint on December 5, 2022.

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 December 12, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 1, 2023. The Respondent did not submit any formal response. Accordingly, the Center notified the Parties with Commencement of Panel Appointment Process email on January 6, 2023.

The Center appointed Nicholas Smith as the sole panelist in this matter on January 17, 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 financial services company founded in 2017. The Complainant operates a financial services trading platform focusing on cryptocurrencies under the trademark BLOCKFI (the "BLOCKFI Mark"), which manages more than USD 2 billion in assets. The Complainant's platform operates from its website at "www.blockfi.com" ("Complainant's Website").

The Complainant has held a trademark registration for the BLOCKFI Mark in the United States since 2020, with a registration date of February 18, 2020, and a first use in commerce date of January 2, 2018 (registration No. 5989814).

The Domain Name was registered on September 11, 2022. Prior to the commencement of the proceeding it resolved to a website (the "Respondent's Website") that prominently reproduced the BLOCKFI Mark and the Complainant's BLOCKFI Logo and significant material copied from the Complainant's Website. The Respondent's Website purports to offer cryptocurrency trading services in direct competition with the Complainant and provides a portal where visitors are encouraged to enter their personal and financial information, including details of their Bitcoin wallet addresses and passwords.

5. Parties' Contentions

A. Complainant

The Complainant makes the following contentions:

- (i) that the Domain Name is identical or confusingly similar to the Complainant's BLOCKFI Mark; and
- (ii) that the Respondent has no rights nor any legitimate interests in respect of the Domain Name; and
- (iii) that the Domain Name has been registered and is being used in bad faith.

The Complainant is the owner of the BLOCKFI Mark, having registered the BLOCKFI Mark in the United States. The Domain Name is confusingly similar to the BLOCKFI Mark as it reproduces the word mark BLOCKFI in its entirety and adds the descriptive term "-trades".

There are no rights or legitimate interests held by the Respondent in respect of the Domain Name. The Complainant has not granted any license or authorization for the Respondent to use the BLOCKFI Mark. The Respondent is not commonly known by the BLOCKFI Mark, nor does it use the Domain Name for a *bona fide* purpose or legitimate noncommercial purpose. Rather, the Respondent is using the Domain Name to phish for investors' personal and financial details and defraud these investors. Such use is not a legitimate use of the Domain Name.

The Domain Name was registered and is being used in bad faith. There is no plausible circumstance under which the Respondent could legitimately use the Domain Name, which combines the BLOCKFI Mark and the word "trades" other than to falsely create an impression of an association with the Complainant. By using the Domain Name to resolve to a website which offers cryptocurrency investments and encourages investors to provide personal and financial information, the Respondent is using the Domain Name to divert Internet users searching for the Complainant to the Respondent's Website for commercial gain and to commit a fraud on those investors. Such conduct amounts to registration and use of the Domain Name in bad faith.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. The Respondent sent an informal communication to the Center on December 1, 2022 asking for details about the dispute, but did not substantively address any aspects of the Complaint.

6. Discussion and Findings

A. Identical or Confusingly Similar

To prove this element the Complainant must have trade or service mark rights, and the Domain Name must be identical or confusingly similar to the Complainant's trade or service mark.

The Complainant is the owner of the BLOCKFI Mark, having a registration for the BLOCKFI Mark as a trademark in the United States. The Domain Name wholly incorporates the BLOCKFI Mark along with the additional word "-trades" (and the ".com" generic Top-Level Domain ("gTLD"), which can be discounted as an essential element of any domain name). Other UDRP panels have repeatedly held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) do not prevent a finding of confusing similarity under the first element; see section 1.8 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Panel finds that the Domain Name is confusingly similar to the Complainant's BLOCKFI Mark. Consequently, the requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

To succeed on this element, a complainant must make out a *prima facie* case that the respondent lacks rights or legitimate interests in the domain name. If such a *prima facie* case is made out, then the burden of production shifts to the respondent to demonstrate rights or legitimate interests in the domain name. Paragraph 4(c) of the Policy enumerates several ways in which a respondent may demonstrate rights or legitimate interests in a domain name:

"Any of the following circumstances, in particular but without limitation, if found by the panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of paragraph 4(a)(ii):

- (i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or
- (ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or
- (iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue."

The Respondent is not affiliated with the Complainant in any way. It has not been authorized by the Complainant to register or use the Domain Name or to seek the registration of any domain name incorporating the BLOCKFI Mark or a mark similar to the BLOCKFI Mark. There is no evidence that the Respondent is commonly known by the Domain Name or any similar name. There is no evidence that the Respondent has used or made demonstrable preparations to use the Domain Name in connection with a legitimate noncommercial or fair use or a *bona fide* offering of goods and services.

The Respondent's use of the Domain Name to resolve to a webpage reproducing the Complainant's BLOCKFI Mark, logo, and copyrighted material, purporting to offering cryptocurrency services in direct competition with the Complainant does not amount to use for a *bona fide* offering of goods and services. Rather, it appears that the purpose behind the Respondent's Website is to encourage visitors, under the impression that they are dealing with the Complainant, to provide their personal and financial details to the Respondent to enable the Respondent to commit a fraud. Such conduct is phishing, which is not a *bona fide* offering of goods or services.

The Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the Domain Name. The Respondent has had the opportunity to put on evidence of its rights or legitimate interests, including submissions as to why its conduct amounts to a right or legitimate interest in the Domain Name under the Policy. In the absence of such a Response, the Panel finds that the Respondent has no rights or legitimate interests in respect of the Domain Name under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

For the purposes of paragraph 4(a)(iii) of the Policy, the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of the Domain Name in bad faith:

- (i) circumstances indicating that the Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registrations to the Complainant who is the owner of the trademark or service mark or to a competitor of the Complainant, for valuable consideration in excess of its documented out-of-pocket costs directly related to the Domain Name; or
- (ii) the Respondent has registered the Domain Name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the Respondent has engaged in a pattern of such conduct; or
- (iii) the Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the Domain Name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or location or of a product or service on the Respondent's website or location.

The Panel finds that the Respondent must have been aware of the Complainant and its reputation in the BLOCKFI Mark at the time the Respondent registered the Domain Name. The Complainant had developed a reputation in the cryptocurrency space at the time the Domain Name was registered. The Respondent's Website prominently reproduces the BLOCKFI Mark and logo while offering investment services relating to cryptocurrency. The Respondent does not provide, nor is it apparent to the Panel, any reason why an entity would register a domain name that wholly incorporates the BLOCKFI Mark and offer cryptocurrency services other than to take advantage of any confusion with the Complainant and its BLOCKFI Mark. The registration of the Domain Name in awareness of the BLOCKFI Mark and in the absence of rights or legitimate interests amounts under these circumstances to registration in bad faith.

The Respondent's Website purports to offer investment services that take advantage of the Complainant's reputation in the cryptocurrency space. However, what apparently occurs is that the Respondent seeks to use the Respondent's Website in order to steal the personal and financial details (including bitcoin wallet details) of visitors misled into visiting the Respondent's Website for the purposes of committing fraud. Such conduct is deceptive, illegal, and in previous UDRP decisions has been found to be evidence of registration and use in bad faith, see *FIL Limited v. Withheld for Privacy Purposes*, *Privacy service provided by Withheld*

for *Privacy ehf / Mark Steven*, WIPO Case No. [D2021-3284](#). The Panel finds that the Respondent is using the Domain Name in bad faith.

Accordingly, the Panel finds that the Respondent has registered and is using the Domain Name in bad faith under 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 Domain Name <blockfi-trades.com> be transferred to the Complainant.

/Nicholas Smith/

Nicholas Smith

Sole Panelist

Date: January 31, 2023