

ADMINISTRATIVE PANEL DECISION

BlockFi Inc. v. Afro Ninja
Case No. D2023-0746

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 Afro Ninja, India.

2. The Domain Name and Registrar

The disputed domain name <blockfiinu.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 20, 2023. On February 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 20, 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, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 28, 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 March 4, 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 March 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 27, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 28, 2023.

The Center appointed Anna Carabelli as the sole panelist in this matter on April 5, 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.

On April 12, 2023, the Center received an email communication from the Respondent.

4. Factual Background

The Complainant, a financial services company founded in 2017, operates a financial services trading platform focusing on cryptocurrencies under the trademark BLOCKFI. The Complainant's platform manages more than USD 2 billion in assets and is backed by industry-leading investors.

The Complainant is also active on social media platforms, including on Twitter, Facebook, and YouTube, where it posts numerous videos and podcasts on blockchain technology, cryptocurrency, and wealth management.

The Complainant owns a trademark registration for BLOCKFI 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 Complainant also owns the domain name <blockfi.com> (registered on September 27, 2015) redirecting to the Complainant's official website at "www.blockfi.com".

The disputed domain name was registered on November 16, 2022. As per the evidence submitted with the Complaint, while the disputed domain name does not currently resolve to an active page, it previously resolved to a website that purported to offer cryptocurrency-related services in the form of a meme coin bearing the Complainant's BLOCKFI mark.

5. Parties' Contentions

A. Complainant

The Complainant submits and contends that:

- (a) It owns valid and enforceable trademark rights in the BLOCKFI mark which is a coin term created and used exclusively by the Complainant.
- (b) The disputed domain name is confusingly similar to the Complainant's registered trademark. The addition of the generic term "inu" which is commonly used in connection with cryptocurrency, does not prevent a finding of confusing similarity. On the contrary, it further facilitates confusion between the Complainant and the Respondent.
- (c) The Respondent has no rights nor any legitimate interests in respect of the disputed domain name since: (i) the Complainant has no relationship with the Respondent, (ii) the Respondent is not commonly known by the disputed domain name, and (iii) the Respondent's use of the disputed domain name is neither a *bona fide* offering of goods or services nor a legitimate noncommercial or fair use. The Respondent's demonstrated purpose and use of the disputed domain name was to confuse the public into believing that the Respondent's website and its alleged cryptocurrency services were associated with the Complainant in order to benefit from this confusion. Current non-use of the disputed domain name does not preclude a finding that the Respondent lacks any rights or legitimate interests in the disputed domain name.
- (d) The Respondent has registered and is using the disputed domain name in bad faith to disrupt the Complainant's business by using to impersonate the Complainant for commercial gain. The fact that the disputed domain name previously resolved to a website that purported to offer services related to those of the Complainant, indicates that the Respondent registered and used the disputed domain name to

intentionally create a false affiliation, and likelihood of confusion, with the Complainant and its BLOCKFI mark in order to divert Internet users from the Complainant's legitimate website for the Respondent's own commercial gain. The fact that the Respondent's website is no longer active is of no moment, because it could be revived at any time by the Respondent. As such it represents a continuing use of the disputed domain name in bad faith.

(e) The Complainant's trademark BLOCKFI enjoys recognition in its field of financial services. The fact that the disputed domain name comprises the Complainant's distinctive trademark indicated that the Respondent was well aware of the Complainant's trademark when registering the disputed domain name.

Based on the above the Complainant requests the disputed domain name be transferred to the Complainant.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. On April 12, 2023, the Respondent sent an email communication to the Center stating the following: "I am extremely sorry for not replying I didn't have access to this email. The domain which is in dispute isn't even associated to me I just booked it for my client, I am a freelancer. I can happily transfer the domain over."

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the panel to decide the complaint based on the statements and documents submitted and in accordance with the Policy, the Rules and any rules and principles of law that it deems applicable.

Under paragraph 4(a) of the Policy, the complainant must prove each of the following:

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

Paragraph 4(b) of the Policy sets out four illustrative circumstances, which for the purposes of paragraph 4(a)(iii) of the Policy, shall be evidence of registration and use of a domain name in bad faith.

Paragraph 4(c) of the Policy sets out three illustrative circumstances any one of which, if proved by the respondent, shall be evidence of the respondent's rights to or legitimate interests in a disputed domain name for the purpose of paragraph 4(a)(ii) of the Policy above.

6.1 Procedural Issues: Respondent Identity and Late Communication

On April 12, 2023, after the Panel was appointed, the Respondent sent the above-referenced email to the Center, stating that the disputed domain name was "booked" for a "client" of the Respondent and the "domain which is in dispute isn't even associated to" the Respondent.

Further to paragraphs 10 and 12 of the Rules, the Panel has the discretion to consider late-filed submissions by the Parties. In view thereof and considering that there is no prejudice to the Complainant if the Panel admits this informal communication, seeing as it is a mere bald assertion with no supporting information or details on the "client", the Panel will admit this communication.

Additionally, paragraph 1 of the Rules defines the Respondent as "the holder of a domain-name registration against which a complaint is initiated". The Registrar has confirmed that the Respondent is the registrant of

the disputed domain name. Moreover, the amended Complaint was submitted naming the Registrar-disclosed registrant of the disputed domain name as the Respondent. Furthermore, paragraph 3.7.7.3 of the ICANN Registrar Accreditation Agreement states that a Whols-listed registrant accepts liability for any use of the relevant domain name unless it timely discloses the contact information of any underlying beneficial registrant.

In view of the above, the Panel will proceed on the basis that the Registrar-disclosed registrant is the Respondent. The Panel notes that in any case, even if the registrant of the disputed domain name is different from the Respondent, the substantive issues to be considered are essentially the same, and all references to the Respondent in this decision shall be construed to include the actual registrant of the disputed domain name.

As the Respondent's statement has no evidential value, except that the Respondent has been served and is aware of this proceeding, and given the above finding on Respondent identity, this Panel has decided that it is not necessary to delay this proceeding by requesting submissions from the Complainant on the Respondent's email.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Panel finds that the Complainant has established rights over the trademark BLOCKFI based on the evidence submitted in the Complaint.

The disputed domain name consists of the Complainant's trademark BLOCKFI with the addition of the term "inu", followed by the generic Top-Level Domain ("gTLD") ".com".

As highlighted in section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), the addition of the generic gTLD such as ".com" is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. Therefore, the relevant comparison to be made is with the second-level portion of the disputed domain name, *i.e.*, "blockfiinu".

As highlighted in section 1.7 of the [WIPO Overview 3.0](#), the threshold test for confusing similarity typically involves a side-by-side comparison of the domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The disputed domain name entirely incorporates the Complainant's mark BLOCKFI and this is a sufficient element to establish confusing similarity, as held by previous UDRP panels (*e.g.*, *Banca Mediolanum S.p.A. v. Domains By Proxy, LLC / Marzia Chiarello*, WIPO Case No. [D2020-1955](#); *Virgin Enterprises Limited v. Domains By Proxy LLC, Domainsbyproxy.com / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-1923](#); *Patagonia, Inc. v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2019-1409](#)).

As recorded in section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms does not prevent a finding of confusing similarity under the first element.

Accordingly, the Panel finds that disputed domain name is confusingly similar to a mark in which the Complainant has rights. Therefore, the Complainant has established paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) before any notice to it of the dispute, its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name, even if it has acquired no trademark or service mark rights;
- (iii) it is 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 Complainant contends that the Respondent has no rights or legitimate interests in respect of the disputed domain name, based on the following: (a) the Complainant holds prior rights in the registered and well-known BLOCKFI mark, (b) the Respondent has not been authorized to use the Complainant's mark in any way, and (c) the Respondent cannot demonstrate any legitimate noncommercial or fair use of the disputed domain name.

According to section 2.1 of the [WIPO Overview 3.0](#), 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.

Here the Panel finds that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. By not submitting a formal response, the Respondent has failed to invoke any circumstance, which could have demonstrated any rights or legitimate interests in the disputed domain names under paragraph 4(c) of the Policy. There is no indication before the Panel of any activity in relation to the disputed domain name that would give rise to rights or legitimate interests to the Respondent. Rather, the Respondent has used the confusingly similar disputed domain name in a manner that increased the risk of implied affiliation found in the composition of the disputed domain name, by associating the website found at the disputed domain name with an offering of services related to, and bearing, the Complainant's trademark.

Therefore, the Panel finds that the Complainant has established paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

According to paragraph 4(a)(iii) of the Policy, the Complainant must establish that the disputed domain name has been registered and is being used in bad faith. Paragraph 4(b) provides a non-exhaustive list of circumstances indicating bad faith registration and use on the part of a domain name registrant, which includes: "(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location".

In the present case, both the registration and use of the disputed domain name in bad faith can be found pursuant to the above referenced paragraph 4(b)(iv).

By the time the Respondent registered the disputed domain name, the Complainant already had a reputation in its trademark, which is fully adopted in the disputed domain name. In the Panel's view it is not conceivable that the Respondent did not have in mind the Complainant's trademark when registering the disputed domain name. The evidence submitted by the Complainant indicates that the disputed domain name previously resolved to the Respondent's website offering services related to those of the Complainant.

This fact suggests that the Respondent clearly targeted the BLOCKFI mark with a deliberate intent to create an impression of an association with the Complainant and to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's websites or of the services offered on the Respondent's websites.

The fact that the disputed domain name does not currently resolve to a website does not affect the above conclusions. It is an established principle that the lack of active use of a domain name does not as such prevent a finding of bad faith. As stressed by many previous UDRP decisions, "While panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include, amongst others: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, (iii) the implausibility of any good faith use to which the domain name may be put." (See section 3.3 of the [WIPO Overview 3.0](#); *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

Each of these considerations points to the Respondent's passive holding of the disputed domain name being in bad faith. Specifically: (i) the Complainant's trademark is distinctive and well established, (ii) the Respondent has failed to submit a formal response to the Complaint or provide any evidence of good-faith use, (iii) there is no conceivable good faith use to which the disputed domain name could be put by the Respondent, and (iv) it appears the Respondent not only provided false contact information, in light of the courier's inability to deliver the Center's written communication, but it also appears that the Respondent may have engaged in the use of a privacy service, seeing as the previously named Respondent was "Privacy service provided by Withheld for Privacy ehf", to which the Center's written communication was also unable to be delivered – the courier reporting that the related contact details were a "bad address".

Based on the above considerations, the Panel concludes in these circumstances that the Respondent's registration and use of the disputed domain name constitute bad faith, and that the requirement of paragraph 4(a)(iii) of the Policy is also satisfied in this case.

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, <blockfiinu.com>, be transferred to the Complainant.

/Anna Carabelli/

Anna Carabelli

Sole Panelist

Date: April 19, 2023