

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. Milen Radumilo

Case No. D2023-5187

1. The Parties

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

Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name <lpl401k.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 December 13, 2023. On December 13, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 14, 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 named Respondent (Redacted for Privacy, NameBrightPrivacy.com) and contact information in the Complaint. The Center sent an email communication to Complainant on December 15, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on December 19, 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 Respondent of the Complaint, and the proceedings commenced on December 28, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2024. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on January 19, 2024.

The Center appointed Gabriel F. Leonardos as the sole panelist in this matter on February 8, 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

Complainant is an American independent broker-dealer, founded in 1989 promoting a range of financial services offering clients advice on retirement planning, and brokerage solutions as well as retirement plan resources.

Complainant is the owner of the trademark LPL.

Complainant owns several domain names including the mark LPL, such as <lpl.com>; <lpl.net>; <lpl-financial.com>, and <lplaccountview.com> in which promotes and offers its services. In addition, Complainant's parent company, LPL Holdings, Inc., is the owner of the branded generic Top-Level Domains (gTLDs) ".lpl" and ".lplfinancial".

Some examples of Complainant's trademark registrations can be found below:

Registration No.	Trademark	Jurisdictions	International Class	Registration Date
1801076	LPL	USA	36	October 26, 1993
UK00003753607	LPL	United Kingdom ("UK")	36, 42	May 13, 2022
018653022	LPL	European Union ("EU")	36	May 26, 2022

The disputed domain name was registered on August 6, 2023, and redirects to various websites advertising third-party goods or services. It is also listed for sale at Afternic platform,

5. Parties' Contentions

A. Complainant

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

Notably, Complainant contends that the disputed domain name is confusingly similar to the registered trademark LPL, since it fully incorporates Complainant's trademark LPL and includes the term "401k" after the mark related to commonly known American employee retirement plan. Complainant states that the addition of the term "401k" does not prevent a finding of confusing similarity as the relevant trademark remains clearly recognizable, quoting the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.8.

Therefore, according to Complainant, the disputed domain name is confusingly similar with Complainant's trademark LPL, fulfilling paragraph 4(a)(i) of the Policy and paragraphs 3(b)(viii) and 3(b)(ix)(1) of the Rules.

In addition, Complainant states that Respondent does not have any rights or legitimate interests in respect of the disputed domain name, nor is Respondent commonly known by the disputed domain name. Further, Respondent has not been authorized, or licensed to use Complainant's trademark LPL as a domain name nor is Respondent associated with Complainant.

Moreover, Complainant states that the disputed domain name is subject to dynamic redirection and infers that Respondent (or a third party) is obtaining commercial gain from the redirection of Internet users to third-party web pages. Therefore, Respondent is not using the disputed domain name in connection with any bona fide offering of goods and services.

This way, Complainant states that no legitimate use of the disputed domain name could be reasonably claimed by Respondent, thus paragraphs 4(c)(ii) of the Policy and paragraph 3(b)(ix)(2) of the Rules have been fulfilled.

Finally, Complainant states that (i) Respondent is using the disputed domain name for dynamic redirection, which does not support a finding of legitimate noncommercial or fair use, absent evidence to the contrary; (ii) Respondent includes in the disputed domain name the mark LPL and the term "401k" creating a risk of implied affiliation with Complainant; (iii) the disputed domain name is listed for sale; (iv) Respondent cannot disclaim liability for content appearing on the websites to which the domain name automatically redirects; see [WIPO Overview 3.0](#), section 3.5.

Thus, according to Complainant, the requirements for the identification of a bad faith registration and use of the disputed domain name have been fulfilled, pursuant to paragraph 4(b)(i) and 4(b)(iv) of the Policy.

Accordingly, Complainant requests transfer of the disputed domain name to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

To succeed in a UDRP complaint, Complainant must demonstrate that all the elements listed in paragraph 4(a) of the Policy have been satisfied, as following:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; and
- (ii) 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.

The burden of proving these elements is upon Complainant.

Respondent was given an opportunity to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the complaint, in the absence of exceptional circumstances, the panel's decision shall be based upon the complaint.

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 Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

Based on the available record, the Panel finds 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 the term “401k” 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 disputed domain name consists also of the generic gTLD “.com”. The applicable gTLD in a domain name, such as “.com” in this case, is viewed as a standard registration requirement and as such is typically disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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 Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on 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 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 respondent fails to come forward with such relevant evidence, complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the disputed domain name. Respondent has not rebutted 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.

The Panel verified that the disputed domain name is used for dynamic redirection, as per the evidence provided on file. The Panel notes that the composition of the disputed domain name comprising Complainant’s trademark and the term “401k” that refers to a retirement plan and, as such, is closely related to a core area of Complainant’s business offering carries a risk of implied affiliation which would not support a claim to rights or legitimate interests.

Based on the available record, 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.

In the present case, the Panel notes that Respondent has registered the disputed domain name that is confusingly similar to Complainant’s trademark LPL – as explained above in section 6.A – that merely adds the term “401k” in this context, according to Complainant, pertaining to an American popular type of retirement plan, which does not disclose Respondent’s lack of any relationship to Complainant and is inherently misleading. The Panel finds that it was duly demonstrated that Respondent was aware of Complainant’s rights to the trademark LPL at the time of the registration – as Respondent actively chose a term related to Complainant’s field of expertise.

Having reviewed the record, the Panel finds Respondent’s registration and use of the disputed domain name associating Complainant’s trademark to the specific financial term “401k” and how the disputed domain name is used constitutes bad faith under the Policy.

The Panel finds that the circumstances of the present case allows a finding of bad faith in the registration and use of the disputed domain name, considering that (i) Respondent would likely obtain commercial gain by using a confusingly similar domain name to Complainant's trademark as likely obtains gains from clicks from Internet users; and (ii) Respondent most likely knew (or should have known) of Complainant's rights, taking advantage of the confusion caused on the public by its use in the disputed domain name.

Moreover, the Panel finds it relevant that Respondent has not provided any evidence of good faith registration or use, or otherwise participated in this dispute. Complainant has put forward serious claims regarding the apparent bad faith use of the disputed domain name that the Panel would expect any legitimate party would seek to refute.

Based on the available record, the Panel finds that 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 <lpl401k.com> be transferred to Complainant.

/Gabriel F. Leonardos/

Gabriel F. Leonardos

Sole Panelist

Date: February 23, 2024