

ADMINISTRATIVE PANEL DECISION

Valeo Financial Advisors, LLC v. This domain is for Sale, Robert K. Mueller
Case No. D2023-5322

1. The Parties

The Complainant is Valeo Financial Advisors, LLC, United States of America ("United States"), represented by Frost Brown Todd LLC, United States.

The Respondent is This domain is for Sale, Robert K. Mueller, Germany.

2. The Domain Name and Registrar

The disputed domain name <valeofinacial.com> is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on December 21, 2023. On December 22, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 23, 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 (Redacted For Privacy, Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 26, 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 amended Complaint on January 2, 2024.

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 January 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 23, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on January 24, 2024.

The Center appointed Luca Barbero as the sole panelist in this matter on January 25, 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 is an investment and financial advisory firm based in the United States and founded in 2003.

The Complainant is the owner, amongst others, of the United States trademark registration No. 3210886 for VALEO (word mark), filed on February 15, 2006, and registered on February 20, 2007, in international class 36;

The Complainant is also the owner of the domain name <valeofinacial.com>, registered on April 14, 2002, and is used by the Complainant to promote its services under the trademark VALEO.

The disputed domain name <valeofinacial.com> was registered on April 14, 2023, and is pointed to a parking page with commercial links related to business consultancy and financial services.

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 the disputed domain name <valeofinacial.com> is confusingly similar to the trademark VALEO in which the Complainant has rights as it reproduces the trademark in its entirety with the mere addition of the term "finacial", which would be a misspelling of the word "financial", and the generic Top-Level Domain ("gTLD") ".com".

The Complainant states that the Respondent has no rights or legitimate interests in the disputed domain name since the Respondent: i) is neither a franchisee or otherwise affiliated with the Complainant; ii) is not doing business as "Valeo" or "Valeo Finacial" and iii) is using the disputed domain name for illegitimate purposes and not for a bona fide offering of goods or services.

With reference to the circumstances evidencing bad faith, the Complainant submits that the Respondent registered the disputed domain name, without the Complainant's authorization, long after the VALEO mark had become a well-known trademark of the Complainant. It also states that, considering the disputed domain name is so obviously connected with the Complainant, which is in no way connected to the Respondent, the Respondent registered the disputed domain name in opportunistic bad faith.

The Complainant also points out that the Respondent registered the disputed domain name in bad faith to capitalize on the goodwill associated with the VALEO mark by attracting users seeking financial services. The Complainant further states that the Respondent is preventing the Complainant from obtaining its rightful ownership and control of the disputed domain name and submits that the Respondent's use of a Whois privacy service is further evidence of the Respondent's bad faith.

B. Respondent

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

6. Discussion and Findings

According to paragraph 15(a) of the Rules: “A Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable.” Paragraph 4(a) of the Policy directs that the Complainant must prove each of the following:

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

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. Indeed, the Complainant has provided evidence of ownership of a valid trademark registration for VALEO (Annex 4 to the Complaint).

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 “finacial” (clear misspelling of “financial”) 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.

Therefore, 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.

According to the evidence on record, there is no relationship between the Complainant and the Respondent, and the Complainant has not authorized the Respondent to register or use its trademark or the disputed domain name.

Moreover, there is no element from which the Panel could infer the Respondent's rights and legitimate interests over the disputed domain name, or that the Respondent might be commonly known by the disputed domain name.

The disputed domain name is pointed to a parking page displaying pay-per-click links related to business consultancy and financial services, which then redirect users to websites of the Complainant's competitors. The Panel finds that such use of the disputed domain name does not amount to a bona fide offering of goods or services or a legitimate noncommercial or fair use.

Prior panels have found that the use of a domain name to host a parked page comprising pay-per-click links does not represent a bona fide offering where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. WIPO Overview, section 2.9.

Therefore, 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 in light of the prior registration and use of the trademark VALEO in connection with the services provided by the Complainant since 2003 and considering the Complainant's promotion of its services online via the website at "www.valeofinancial.com", the Respondent was or should have been aware of the Complainant and its trademark at the time of registration of the disputed domain name.

Moreover, the Panel notes that the disputed domain name is a clear typosquatting of the Complainant's prior domain name <valeofinancial.com>, from which it differs only by the omission of a single letter "n" in the disputed domain name.

Furthermore, the disputed domain name is pointed to a parking page displaying pay-per-click links related to services for which the Complainant's trademark VALEO is registered and used.

In view of the above, the Panel finds that the Respondent was very likely aware of the Complainant's trademark and registered the disputed domain name with the intention to target the Complainant and its trademark.

Moreover, in view of the above-described use of the disputed domain name, the Panel finds that the Respondent intentionally attempted to attract Internet users to its website for commercial gain, by creating a likelihood of confusion with the trademark VALEO as to the source, sponsorship, affiliation or endorsement of its website and the services promoted therein according to paragraph 4(b)(iv) of the Policy.

Therefore, 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 <valeofinacial.com> be transferred to the Complainant.

/Luca Barbero/

Luca Barbero

Sole Panelist

Date: February 9, 2024