

ADMINISTRATIVE PANEL DECISION

Phoenix Life Limited v. Courtney Bullock

Case No. D2024-0725

1. The Parties

The Complainant is Phoenix Life Limited, United Kingdom, represented by Pinsent Masons LLP, United Kingdom.

The Respondent is Courtney Bullock, United States of America.

2. The Domain Name and Registrar

The disputed domain name <yourphoenixlife.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 16, 2024. On February 16, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 16, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 19, 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 amendment to the Complaint on February 21, 2024.

The Center verified that the Complaint together with the amendment to 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 the Respondent of the Complaint, and the proceedings commenced on March 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2024. The Respondent sent informal emails to the Center on March 6, 2024 and April 4, 2024 but did not submit any formal response. The Center notified the Parties that it would proceed to panel appointment on April 2, 2024.

The Center appointed Mihaela Maravela as the sole panelist in this matter on April 3, 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

According to information in the Complaint, the Complainant is a subsidiary of Phoenix Group Holdings Plc., which is a long-term savings and retirement business, being known and responsible for managing and investing funds on behalf of their customers. It was initially founded in United Kingdom as Phoenix Assurance, which has been trading since 1786. As of 2023, the Complainant administered assets of circa 12 million customers the total value of which was circa GBP 259 billion.

The Complainant is the holder of a number of trademarks for PHOENIX or PHOENIX LIFE in various jurisdictions. In the United Kingdom they include, inter alia, the trademark PHOENIX (word) No. UK00001306768, registered on October 5, 1990 designating services in international class 36 or the trademark PHOENIX LIFE (figurative) No. UK00917920654, registered on December 1, 2020 designating services in classes 35 and 36. The Complainant has registered many domain names that include the PHOENIX or PHOENIX LIFE brands, such as <phoenixlife.co.uk>, which has been registered since July 2008, and has been operated by the Complainant for the PHOENIX brand since at least June 2012.

The disputed domain name was registered on August 4, 2023 and it has been used for a parking page that appears to have been generated by the Registrar and contains various pay-per-click links.

5. Parties' Contentions

A. Complainant

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

Notably, the Complainant contends that the disputed domain name is confusingly similar with the Complainant's marks and trading name, as the disputed domain name wholly incorporates the PHOENIX brand, with the addition of the words "your" at the beginning and "life" at the end. Therefore, the disputed domain name is phonetically and visually confusingly similar with the Complainant's trademarks. The Complainant submits that the addition of the word "life" exacerbates the association of the disputed domain name with the Complainant given the fact that the Complainant operates within the life insurance and pensions business.

As regards the second element, the Complainant argues that the disputed domain name has not been used to host a website. The Respondent has no connection with the Complainant and there is no evidence of the Respondent holding any rights in a name or a sign which is similar to or identical with the Complainant's trademarks, being commonly known by the disputed domain name or having acquired any legitimate rights in respect of the disputed domain name since its registration or prior to it. Also, the Respondent has no authorisation to use the Complainant's marks and, therefore, the current use of the disputed domain name by it constitutes infringement of the Complainant's marks.

With respect to the third element, the Complainant argues that the Respondent was undoubtedly aware of the Complainant's PHOENIX brand which enjoyed widespread international presence for over 200 years before the Respondent registered the disputed domain name. The inclusion of both the PHOENIX sign and the word "life" in the disputed domain name is likely to lead an average Internet user to believe that the disputed domain name is owned by the Complainant.

B. Respondent

The Respondent did not formally reply to the Complainant's contentions. In an informal communication of March 6, 2024, the Respondent indicated that: "I am a real estate agent in Phoenix, Arizona, United States of America who registered this domain last year to create a website for my real estate business highlighting living in Phoenix, AZ. I have never created such a site. I have no idea how I am supposed to "respond" to this complaint. I am baffled that a company in England thinks that I am trying to fool anyone." In a second informal communication of April 4, 2024, the Respondent stated that: "I no longer own this domain. Have a nice day."

6. Discussion and Findings

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

The applicable standard of proof in UDRP cases is the "balance of probabilities" or "preponderance of the evidence", and the Panel can draw certain inferences in light of the particular facts and circumstances of the case. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

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 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.

The Panel finds the PHOENIX LIFE mark of the Complainant is recognizable 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 other terms (here, "your") 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 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.

In the present case, the Panel notes that the Respondent has used the disputed domain name for a parking website that appears to be generated by the Registrar and contains various pay-per-click links. In its informal communication of March 6, 2024, the Respondent claimed to have registered the disputed domain name to create a website for her real estate business highlighting living in Phoenix. However, no evidence was adduced in this respect. In the second informal communication of April 4, 2024, the Respondent indicated that she no longer owns the disputed domain name. In the circumstances of the case this statement might be viewed as an admission of lack of legitimate interests on the part of the Respondent.

Having reviewed the available record, the Panel finds on balance of probabilities that 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.

Furthermore, the nature of the disputed domain name, which includes the Complainant's PHOENIX LIFE trademark in addition to the term "your" carries a risk of implied affiliation and cannot constitute a fair use as it effectively impersonates or suggests sponsorship or endorsement by the Complainant. See section 2.5.1 of the [WIPO Overview 3.0](#).

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The disputed domain name was registered long after the Complainant had obtained registration of its PHOENIX or PHOENIX LIFE trademarks, that date back to at least early 1990. The disputed domain name is confusingly similar to the Complainant's trademark. In the informal communications to the Center the Respondent has not denied knowledge of the Complainant or its trademarks. Under these circumstances, and given also (i) the prior use of the Complainant's PHOENIX and PHOENIX LIFE trademarks in connection with the Complainant's services, including via the Complainant's websites at <phoenixlife.co.uk>, or <phoenixlifegroup.co.uk>, (ii) the distinctiveness of the PHOENIX and PHOENIX LIFE trademarks which are renowned in their sector, as per evidence with the Complaint, the Panel finds it very likely that the Respondent has registered the disputed domain name with knowledge of the Complainant and its trademarks.

As indicated in section 6B above, the Panel notes that the Respondent has used the disputed domain name for a parking website that appears to be generated by the Registrar and contains various pay-per-click links to services related to the Complainant's field of activity. Presumably, the Respondent benefits from the confusion created by the incorporation of the Complainant's PHOENIX and PHOENIX LIFE trademarks in the disputed domain name and the distinctiveness of the Complainant's trademark that has been registered and used for decades: it is likely that the Respondent earns income when Internet users click on the links in search of the Complainant's services. Although the pay-per-click links may be generated by a third party, the Respondent cannot disclaim responsibility for them. [WIPO Overview 3.0](#), section 3.5.

In the Panel's view, the circumstances of the case represent evidence of registration and use in bad faith of the disputed domain name.

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 <yourphoenixlife.com> be transferred to the Complainant.

/Mihaela Maravela/

Mihaela Maravela

Sole Panelist

Date: April 17, 2024