

ADMINISTRATIVE PANEL DECISION

Marcum LLP v. Lar Frank
Case No. D2024-4402

1. The Parties

The Complainant is Marcum LLP, United States of America (“United States”), represented by Vedder Price P.C., United States.

The Respondent is Lar Frank, Philippines.

2. The Domain Name and Registrar

The disputed domain name <marcumcrypto.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 October 25, 2024. On October 28, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On October 30, 2024, 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 (REDACTED FOR PRIVACY, See PrivacyGuardian.org) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 30, 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 November 4, 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 November 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 4, 2024.

The Center appointed Ian Lowe as the sole panelist in this matter on December 9, 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 a well-known, United States accounting and advisory firm established in 1994 that services a wide range of clients, including privately held and publicly registered companies, high net worth individuals, and nonprofit organizations. It offers a broad spectrum of professional services including tax planning and preparation, financial accounting assistance, and wealth management.

The Complainant has offered its goods and services under the MARCUM mark since at least June 2009. As part of its accounting and advisory practice, the Complainant offers a wide variety of specialized services related to cryptocurrency and digital assets. These include specialized analytics for cryptocurrencies and crypto assets, financial accounting and advisory services related to appraising and valuing crypto holdings, and advisory services related to digital wallet implementation for cryptocurrency payments.

The Complainant is the proprietor of a number of registered trademarks comprising MARCUM including United States trademark number 6214695 MARCUM registered on December 8, 2020; and International trademark number 1818108 MARCUM registered on December 21, 2023.

The Domain Name was registered on August 21, 2024. It does not currently resolve to an active website but at the time of preparation of the Complaint it resolved to a website where “marcumcrypto” offered investment services claiming that it implemented “dozens of projects related to the organization of cryptocurrency investment, forex, stocks and e-currency trading processes.” The Contact Us details included an address in Tulsa, Oklahoma. The website claimed that marcumcrypto was a regulated broker, listing six regulators by which it claimed to be authorized or regulated.

These included the “Financial Tech Authority of Oklahoma” which the Panel was unable to identify searching the Internet. It also claimed to have been accredited by the Financial Conduct Authority (“FCA”) since 2015. The United Kingdom FCA website did not list marcumcrypto as an accredited body. However, the Tulsa address on the marcumcrypto website appeared on the FCA Warning List against an Unauthorised Firm with a different name. Further, marcumcrypto claimed to be authorized and registered with the United States National Futures Association. However, the NFA ID given refers to a different named entity which is stated on the NFA website to be a Non-Member and not subject to NFA oversight.

The Complainant also points out that other websites, including www.coin-std.com, have almost identical content, including the six claimed regulators citing identical registration numbers and ID, and the same Tulsa address.

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 Domain Name.

B. Respondent

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

6. Discussion and Findings

For this Complaint to succeed in relation to the Domain Name the Complainant must prove that:

- (i) the Domain Name is confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the Domain Name; and
- (iii) the 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 uncontested rights in the MARCUM trademark (the "Mark"), both by virtue of its trademark registrations and as a result of its widespread use of the Mark over a number of years. Ignoring the generic Top-Level Domain ".com", the Domain Name comprises the entirety of the Complainant's MARCUM trademark together with the term "crypto". In the view of the Panel, the addition of the term "crypto" does not prevent a finding of confusing similarity between the Domain Name and the Mark. Accordingly, the Panel finds that the Domain Name is confusingly similar to a trademark in which the Complainant has rights and 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. Accordingly, 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 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 Domain Name such as those enumerated in the Policy or otherwise.

The Respondent has not used the Domain Name for a bona fide offering of goods or services, but rather for a website purporting to offer investment services including cryptocurrency, and making a number of false claims as to its authorization or accreditation by regulatory bodies. It also gives as its address one in Oklahoma, United States although the registrant has an address in the Philippines. The Panel considers that the legitimate inference is that the Domain Name has been used for phishing or other fraudulent activity and panels have regularly held that the use of a domain name for illegal activity, such as indicated in this case, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

The Domain Name comprises the Complainant's Mark and the term "crypto", a reference to the cryptocurrency related services provided by the Complainant. Accordingly, the Panel considers on balance that the Respondent had the Complainant and its rights in the Mark in mind when it registered the Domain Name. The Panel considers that the Respondent has registered and used the Domain Name to deceive Internet users into believing that the Domain Name is operated or authorized by the Complainant, and to attract Internet users by creating a likelihood of confusion with the Mark, clearly for commercial gain.

Furthermore, given the false claims on its website, the Panel considers it likely that the Respondent is using the Domain Name for fraudulent purposes. Such behavior is manifestly considered evidence of bad faith; see [WIPO Overview 3.0](#), section 3.4.

The Panel finds the third element of the Policy has been established.

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 <marcumcrypto.com> be transferred to the Complainant.

/Ian Lowe/

Ian Lowe

Sole Panelist

Date: December 20, 2024