

ADMINISTRATIVE PANEL DECISION

Principal Financial Services, Inc. v. DAMIAN KIRKALDY, HogarMio.com
Case No. D2024-4512

1. The Parties

The Complainant is Principal Financial Services, Inc., United States of America (“United States”), represented by Neal & McDevitt, United States.

The Respondent is DAMIAN KIRKALDY, HogarMio.com, United States.

2. The Domain Name and Registrar

The disputed domain name <principalinsurance.net> is registered with Domain.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 1, 2024. On November 4, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 4, 2024, the Registrar transmitted by email to the Center its verification response disclosing that the registrant and contact information for the disputed domain name differed from the named Respondent (Redacted for Privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 5, 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 5, 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 11, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 1, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 9, 2024.

The Center appointed Steven Auvil as the sole panelist in this matter on December 17, 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 the Complaint, the Complainant is a multi-national institution offering a broad range of services in the financial, insurance, investment, banking, retirement, global asset management, real estate, and healthcare sectors. The Complainant has used the PRINCIPAL name in connection with a variety of products and services since 1985.

The Complainant owns numerous United States trademark registrations for the PRINCIPAL brand, including registration No. 1562541 for PRINCIPAL, registered on October 24, 1989; registration No. 3324583 for PRINCIPAL, registered on October 30, 2007; and, registration No. 1740181 for THE PRINCIPAL, registered on December 15, 1992. Additionally, the Complainant has registered and used the following domain names consisting of the PRINCIPAL brand: <principal.com>; <principallifeinsurance.com>; <principallifeinsurancecompany.com>; <principalfinancial.com>; <principalfinancialgroup.com>; and <principalfinancialgrp.com>.

The Respondent registered the disputed domain name on August 19, 2023. According to the Complaint, the disputed domain name is being used to divert traffic away from the Complainant's website to the Respondent's website and trade off the goodwill and public recognition of the Complainant's brand. The Respondent has used the disputed domain name to set up a website that purportedly offers insurance services identical to those provided by the Complainant. The disputed domain name website purportedly includes fake contact information, fake employee profiles, fake awards, and fake client testimonials in an effort to deceive consumers interested in receiving insurance services into divulging personal information to the Respondent.

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.

The Complainant first contends that the disputed domain name is confusingly similar to its PRINCIPAL mark because the disputed domain name incorporates the entirety of the Complainant's PRINCIPAL mark with the addition of the term "insurance", which does not mitigate the confusing similarity between the Complainant's PRINCIPAL mark and the disputed domain name.

The Complainant also alleges that the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, there is no relationship, nor has there ever been one, between the Complainant and the Respondent that would give rise to any license, sponsorship, permission or authorization for the Respondent to use or register the disputed domain name. Additionally, the Complainant has not authorized the Respondent to use the PRINCIPAL mark or any variation of it for a website or any other purpose. Further, the Complainant contends that the Respondent is not commonly known by the disputed domain name, evidencing a lack of a right or legitimate interest in the PRINCIPAL brand.

The Complainant alleges that the Respondent registered and used the disputed domain name in bad faith. The Complainant alleges it is implausible that the Respondent was not aware of the Complainant or its PRINCIPAL mark when the Respondent registered the disputed domain name as the PRINCIPAL mark is closely linked and associated with the Complainant and the Complainant's insurance services. Furthermore,

the Complainant alleges that the Respondent's bad faith is further supported by the use of "phony" reviews and the inclusion of other highly recognizable brands within the insurance industry. According to the Complainant, these actions evidence that the Respondent tried to make the website associated with the disputed domain name appear legitimate, but, in fact, it is only being used to divert consumers away from the Complainant's websites and phish for consumer data.

The Complainant requests that the disputed domain name be transferred to the Complainant.

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 to obtain relief:

- (i) that the disputed domain name is identical or confusingly similar to a trademark or a 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.

In view of the Respondent's failure to submit a Response, the Panel is entitled to accept as true the allegations set forth in the Complaint (unless the evidence is clearly contradictory), and to derive reasonable inferences from the evidence presented. See *Talk City, Inc. v. Michael Robertson*, WIPO Case No. [D2000-0009](#).

Based on the foregoing guidance, the Panel makes the following findings and conclusions based on the allegations and evidence contained in the Complaint and reasonable inferences drawn from the evidence presented.

A. Identical or Confusingly Similar

It is well accepted that the first element of the Policy 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 evidence submitted by the Complainant supports the conclusion that the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. The Complainant owns several registered trademarks for the PRINCIPAL brand. [WIPO Overview 3.0](#), section 1.2.1.

The evidence also supports the conclusion that the disputed domain name is confusingly similar to the Complainant's PRINCIPAL mark. As set forth in [WIPO Overview 3.0](#), section 1.7, when the entirety of a mark is reproduced within the disputed domain name, or "at least a dominant feature of the relevant mark is recognizable in the domain name", the disputed domain name is deemed confusingly similar to the mark for the purposes of the Policy. Further, where the "relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element." [WIPO Overview 3.0](#), section 1.8.

Here, the disputed domain name includes the entirety of the Complainant's PRINCIPAL mark with the addition of the term "insurance", which the Panel views as alluding to the Complainant's status as an insurance provider. This inclusion of the term "insurance" with "principal" in the disputed domain name does not prevent a finding of confusing similarity with the PRINCIPAL mark. See *AXA SA v. Mohamed Awad*, WIPO Case No. [D2020-0066](#).

Additionally, as set forth in [WIPO Overview 3.0](#), section 1.11.1, the applicable generic Top-Level Domain ("gTLD") (e.g., ".com", ".site", ".info", ".shop") is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test. As such, the use of ".net" TLD in the disputed domain name has no bearing on the confusing similarity analysis.

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. Such circumstances include:

- (i) before any notice of the dispute, the respondent used, or prepared to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a bona fide offering of goods or services;
 - (ii) the respondent (as an individual, business, or other organization) is commonly known by the disputed domain name, even if the respondent has acquired no trademark or service mark rights; or
 - (iii) the respondent 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.
- [WIPO Overview 3.0](#), section 2.1.

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." As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests in a disputed domain name, 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 evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the evidence of record, 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. The evidence demonstrates that the Respondent is using the disputed domain name in an attempt to pass itself off as or impersonate the Complainant. Panels have held that the use of a domain name for illegitimate activity, such as impersonation/passing off, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

The Respondent has not attempted to rebut the Complainant's prima facie showing; in fact, the Respondent 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. There is no evidence that the Complainant has licensed or otherwise authorized the Respondent's use of the PRINCIPAL mark as a domain name, nor is there evidence that the Respondent has any affiliation, association, sponsorship, or connection with the Complainant.

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 that, if found by the Panel to be present, is evidence of the registration and use of a domain name in bad faith. Such circumstances include, among others, where “the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor,” and where “by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website 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 the respondent’s website or location or of a product or service on the respondent’s website or location.” [WIPO Overview 3.0](#), section 3.1. Additionally, section 3.2.1 of the [WIPO Overview 3.0](#) provides that “[p]articular circumstances panels may take into account in assessing whether the respondent’s registration of a domain name is in bad faith include: (i) the nature of the domain name (e.g., a typo of a widely-known mark, or a domain name incorporating the complainant’s mark plus an additional term such as a descriptive or geographic term, or one that corresponds to the complainant’s area of activity or natural zone of expansion); [...] (vi) a clear absence of rights or legitimate interests coupled with no credible explanation for the respondent’s choice of the domain name, or (viii) other indicia generally suggesting that the respondent had somehow targeted the complainant.”

In the present case, the Panel concludes that the Respondent registered and is using the disputed domain name in bad faith. The disputed domain name incorporates the entirety of the Complainant’s registered and well-known PRINCIPAL mark. Moreover, the Panel finds that the Respondent has engaged in using the disputed domain name to impersonate the Complainant and to divert traffic to the Respondent’s website in an effort to deceive Internet users interested in receiving insurance services into divulging personal information to the Respondent.

Considering this and other circumstances, including the failure of the Respondent to respond to the Complaint, the Panel finds that the Respondent knew of the Complainant’s PRINCIPAL mark at the time of registering the disputed domain name and endeavored to unfairly capitalize on the mark for commercial gain. The Panel therefore concludes that the disputed domain name was registered and is being used in bad faith.

The Panel therefore 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 <principalinsurance.net> be transferred to the Complainant.

/Steven Auvil/

Steven Auvil

Sole Panelist

Date: December 31, 2024