

## **ADMINISTRATIVE PANEL DECISION**

LPL Financial LLC v. Divyarajsinh Zala  
Case No. D2024-4989

### **1. The Parties**

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

The Respondent is Divyarajsinh Zala, India, represented by The Planet Legal, India.

### **2. The Domain Name and Registrar**

The disputed domain name <lplfinancialcorp.com> is registered with SRS AB (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 3, 2024. On December 3, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 10, 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 (Protected Protected Shield Whois) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 10, 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 December 13, 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 December 16, 2024. In accordance with the Rules, paragraph 5, the due date for Response was January 5, 2025. The Respondent did not submit any response. The Respondent sent email communications to the Center on December 10 and 23, 2024, expressing readiness to settle and consent to remedy.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on January 13, 2025. 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**

It results from the Complainant's undisputed allegations that it was founded in 1989. Nowadays the Complainant is prominent in the retail financial advice market and is considered the largest independent broker-dealer in the United States.

Furthermore, the undisputed evidence provided by the Complainant proves that it is the owner of several registered trademarks for "LPL" and "LPL FINANCIAL", including the following:

- United States Trademark Registration No. 1801076, LPL, registered on October 26, 1993;
- European Union Trade Mark No. 018653022, LPL, registered on May 26, 2022;
- United Kingdom Trademark Registration No. UK00003753611, LPL FINANCIAL, registered on May 13, 2022.

The disputed domain name was registered on November 13, 2024 and leads to an inactive website ("*This site can't be reached*"). MX records are connected to the disputed domain name.

On November 22, 2024, the Complainant's representatives sent a cease and desist letter to the Respondent via the proxy service with which the disputed domain name was registered requesting, inter alia, transfer of the disputed domain name. The Respondent did not reply.

#### **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:

- (1) The disputed domain name is confusingly similar to Complainant's trademarks. The Complainant owns trademark registrations for LPL and LPL FINANCIAL which are identically included in the disputed domain name. The addition of the word "corp" (ostensibly as an abbreviation of "corporation") to the Complainant's LPL and LPL FINANCIAL trademarks in the disputed domain name does not prevent a finding of confusing similarity, as the Complainant's LPL and LPL FINANCIAL marks remain clearly recognizable;
- (2) The Respondent has no rights or legitimate interests in the disputed domain name, because it is unable to invoke any of the circumstances set out in paragraph 4(c) of the Policy that might demonstrate its rights or legitimate interests. Notwithstanding the Complainant's pre-Complaint cease and desist letter, the Respondent has not come forward with any evidence of having made demonstrable preparations to use the disputed domain name;
- (3) the disputed domain name was registered and is being used in bad faith for reasons that go beyond the scope of the examples of bad-faith behavior set out in paragraph 4(b) of the Policy.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions. On December 10, 2024 by an informal email to the Center the Respondent merely stated that he/she didn't know that the disputed domain name "was so close to LPL Financial" and announced to delete the disputed domain name the next day. On December 23, 2024, the Center was contacted by the Respondent's authorized Representative, expressing consent to remedy.

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to "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 requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (i) the disputed domain name is identical or 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 disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### **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 LPL and LPL FINANCIAL trademarks for the purposes of the Policy, [WIPO Overview 3.0](#), section 1.2.1. The entirety of these marks is reproduced within the disputed domain name. The Panel finds these marks be recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the marks for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, "corp", 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.

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.

In particular, there is no evidence in the records to suggest that the Respondent is commonly known by the disputed domain name, as contemplated by paragraph 4(c)(ii) of the Policy, nor is the Respondent making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers, within the meaning of paragraph 4(c)(iii) of the Policy. The passive holding of the disputed domain name does not amount to use or preparations to use it in connection with a bona fide offering of goods and services.

Finally, the Panel notes that the nature of the disputed domain name rather carries a risk of implied affiliation, since the disputed domain name identically contains the LPL and LPL FINANCIAL trademarks and that those trademarks are not terms that one would legitimately adopt as a domain name unless to suggest an affiliation with the Complainant (cf. *LPL Financial LLC v. Withheld for Privacy Purposes, Privacy Service Provided by Withheld for Privacy ehf / Faik Slappendel* – WIPO Case No. [D2021-4000](#)). Generally speaking, previous UDRP panels have largely held that domain names that consists of a trademark plus an additional term that such composition cannot constitute fair use if it effectively impersonates or suggests sponsorship or endorsement by the trademark owner. The Panel shares this view.

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 the Respondent, based on the evidence submitted by the Complainant, knew or should have known that the disputed domain name consisted of the Complainant's trademarks when it registered the disputed domain name. This is underlined by the fact that the disputed domain name identically contains the registered LPL and LPL FINANCIAL trademarks and was registered decades after the filing of the Complainant's trademark application in the United States, reflecting an intent to target the Complainant's trademark rights.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. Having reviewed the available record, the Panel finds the non-use of the disputed domain name does not prevent a finding of bad faith in the circumstances of this proceeding. Although panelists will look at the totality of the circumstances in each case, factors that have been considered relevant in applying the passive holding doctrine include: (i) the degree of distinctiveness or reputation of the complainant's mark, (ii) the failure of the respondent to submit a response or to provide any evidence of actual or contemplated good-faith use, and (iii) the respondent's concealing its identity or use of false contact details (noted to be in breach of its registration agreement), [WIPO Overview 3.0](#), section 3.3.

Having reviewed the available record, the Panel notes the distinctiveness of the Complainant's LPL and LPL FINANCIAL trademarks combined with the Complainant's long-lasting business, its developed Internet and social media presence. In the light of these facts, the Panel finds that in the circumstances of this case the

passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy. It rather finds that the combination of these facts with the further circumstances surrounding the disputed domain name's registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

- (1) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent's choice of the disputed domain name;
- (2) the Respondent not replying to the Complainant's cease-and-desist letter sent before these proceedings have been started;
- (3) the disputed domain name being set up with MX records, suggesting that the Respondent intended to create email addresses;
- (4) the Respondent's use of a privacy service to conceal its identity; and
- (5) the fact that the details disclosed of the Respondent by the Registrar are incomplete or false, noting the courier's inability to deliver the Center's Written Notice.

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 <lplfinancialcorp.com> be transferred to the Complainant.

*/Tobias Malte Müller/*

**Tobias Malte Müller**

Sole Panelist

Date: January 27, 2025