

## **ADMINISTRATIVE PANEL DECISION**

Avidbank v. Leticia Domingo, avidb  
Case No. D2025-1326

### **1. The Parties**

The Complainant is Avidbank, United States of America ("United States"), represented by ZeroFox, United States.

The Respondent is Leticia Domingo, avidb, United States.

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

The disputed domain name <avidlbank.com> (the "Disputed Domain Name") is registered with Squarespace Domains II LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 1, 2025. On April 2, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On April 2, 2025, 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 (avidb) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 3, 2025, 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 April 11, 2025.

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 April 14, 2025. In accordance with the Rules, paragraph 5, the due date for Response was May 4, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on May 5, 2025.

The Center appointed Lynda M. Braun as the sole panelist in this matter on May 12, 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**

Established in 2003, the Complainant is a California, United States corporation that offers business banking focusing on commercial and industrial lending, venture lending, structured finance, asset-based lending, sponsor finance, fund finance, and real estate construction and commercial real estate lending.

The Complainant owns the following trademark through the United States Patent and Trademark Office (“USPTO”): AVIDBANK, United States Registration No. 4,234,681, registered on October 30, 2012, in International Class 36 (hereinafter referred to as the “AVIDBANK Mark”). The Complainant owns the domain name <avidbank.com>, which resolves to its official website at “www.avidbank.com”, registered on November 4, 2010, and through which it has continuously maintained an online presence.

The Disputed Domain Name was registered on October 11, 2024 and resolved to an error landing page with no substantive content. The Complainant claims that the Respondent configured mail exchanger (“MX”) records for the Disputed Domain Name since the Respondent used the Disputed Domain Name in emails sent to the Complainant’s employees that impersonated official company correspondence. The Complainant submitted a screenshot of such an email as an Annex to the Complaint.

#### **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 is confusingly similar to the Complainant’s trademark because the Disputed Domain Name contains the AVIDBANK Mark in its entirety with only the small alteration of an “l” between “avid” and “bank” and then followed by the generic Top-Level Domain (“gTLD”) “.com”, and thus does not prevent a finding of confusing similarity;
- The Respondent has no rights or legitimate interests in respect of the Disputed Domain Name because, among other things, the Complainant has not authorized the Respondent to register a domain name containing the AVIDBANK Mark, and the Respondent is using the Disputed Domain Name to impersonate the Complainant; and
- The Disputed Domain Name was registered and is being used in bad faith because, among other things, the Respondent created MX records to impersonate the Complainant purportedly to send fraudulent emails to the Complainant’s employees.

The Complainant seeks the transfer of the Disputed Domain Name from the Respondent to the Complainant in accordance with paragraph 4(i) of the Policy.

##### **B. Respondent**

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

## 6. Discussion and Findings

In order for the Complainant to prevail and have the Disputed Domain Name transferred to the Complainant, the Complainant must prove the following (Policy, paragraph 4(a)):

- (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 was registered and is being used in bad faith.

### A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a two-fold inquiry: a threshold investigation into whether a complainant has rights in a trademark, followed by an assessment of whether the disputed domain name is identical or confusingly similar to that trademark. The Panel concludes that in the present case, the Disputed Domain Name is confusingly similar to the AVIDBANK Mark as explained below.

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. See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition, (["WIPO Overview 3.0"](#)), section 1.7.

It is uncontroverted that the Complainant has established rights in the AVIDBANK Mark based on its years of use as well as its registered trademark for the AVIDBANK Mark in the United States. Thus, the Complainant has shown rights in the AVIDBANK Mark for purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Disputed Domain Name consists of the AVIDBANK Mark in its entirety with the minor addition of the letter "I" between the terms "avid" and "bank" followed by the gTLD ".com". It is well established that a domain name that wholly incorporates a trademark may be deemed confusingly similar to that trademark for purposes of the Policy despite the addition of another term. As stated in section 1.8 of [WIPO Overview 3.0](#), "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". Thus, the addition of the letter "I" to the Complainant's AVIDBANK Mark in the Disputed Domain Name does not prevent a finding of confusing similarity. See *e.g.*, *Cantor Fitzgerald Securities v. Wanda J. Bradley*, WIPO Case No. [D2020-3051](#).

Finally, the addition of a gTLD such as ".com" in a domain name is a technical requirement. As such, it is well established that a gTLD may typically be disregarded when assessing whether a disputed domain name is identical or confusingly similar to a trademark. See *Proactiva Medio Ambiente, S.A. v. Proactiva*, WIPO Case No. [D2012-0182](#) and [WIPO Overview 3.0](#), section 1.11.1. Thus, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's AVIDBANK Mark.

Based on the available record, the Panel finds that 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 a 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 that 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. See [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.

The Panel finds that the Complainant has not authorized, licensed or otherwise permitted the Respondent to use its AVIDBANK Mark, that the Complainant does not have any type of business relationship with the Respondent, that there is no evidence that the Respondent is commonly known by the Disputed Domain Name or by any similar name, and that there is no evidence that the Respondent was making demonstrable preparations to use the Disputed Domain Name.

Further, the use of the Disputed Domain Name to impersonate the Complainant to send emails to the Complainant's employees does not confer rights or legitimate interests on the Respondent. See [WIPO Overview 3.0](#), section 2.13.1 ("Panels have categorically held that the use of a domain name for illegal activity (e.g., ... phishing, ... impersonation/passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent.").

In sum, the Panel concludes that the Complainant has established an unrebutted prima facie case that the Respondent lacks rights or legitimate interests in the Disputed Domain Name. Rather, the Panel finds that the Respondent is using the Disputed Domain Name for commercial gain with the intent to mislead by potentially defrauding the Complainant's employees by incorporating the Disputed Domain Name into fraudulent emails sent by the Respondent to those individuals. Such use cannot conceivably constitute a bona fide offering of a product or service within the meaning of paragraph 4(c)(i) of the Policy.

Based on the available record, the Panel finds that the second element of the Policy has been established.

### **C. Registered and Used in Bad Faith**

The Panel finds that based on the record, the Complainant has demonstrated the existence of the Respondent's bad faith registration and use of the Disputed Domain Name pursuant to paragraph 4(a)(iii) of the Policy. 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.

First, the Respondent's scheme to email the Complainant's employees using the Disputed Domain Name purportedly to come from the Complainant evidences a clear intent to disrupt the Complainant's business, deceive individuals, and trade off the Complainant's goodwill by creating an unauthorized association between the Respondent and the Complainant's AVIDBANK Mark. See *Banco Bradesco S.A. v. Fernando Camacho Bohm*, WIPO Case No. [D2010-1552](#). Such conduct is emblematic of the Respondent's bad faith registration and use of the Disputed Domain Name. Numerous UDRP panels have found that email-based impersonation schemes that use a complainant's trademark in the disputed domain name are evidence of bad faith. See, e.g., *BHP Billiton Innovation Pty Ltd v. Domains By Proxy LLC / Douglass Johnson*, WIPO Case No. [D2016-0364](#) ("[T]he use of an email address associated with the disputed domain name, to send a phishing email for the purposes of dishonest activity is in itself evidence that the disputed domain name was registered and is being used in bad faith.").

Second, the registration of a domain name that is confusingly similar to a registered trademark by an entity that has no relationship to that mark may be sufficient evidence of opportunistic bad faith. See *Ebay Inc. v. Wangming*, WIPO Case No. [D2006-1107](#); *Veuve Clicquot Ponsardin, Maison Fondée en 1772 v. The Polygenix Group Co.*, WIPO Case No. [D2000-0163](#) (use of a name connected with such a well-known service and product by someone with no connection to the service and product suggests opportunistic bad faith). Based on the circumstances here, the Respondent registered and used the Disputed Domain Name in bad faith in an attempt to create a likelihood of confusion with the Complainant's AVIDBANK Mark.

Third, the Panel finds that the Respondent must have had actual knowledge of the Complainant's AVIDBANK Mark and targeted the Complainant when it registered the Disputed Domain Name, demonstrating the Respondent's bad faith. Based on the Respondent's confusingly similar Disputed Domain Name to the Complainant's trademark and domain name, it strains credulity to believe that the Respondent had not known of the Complainant or its AVIDBANK Mark when registering the Disputed Domain Name. The Respondent's awareness of the Complainant and its AVIDBANK Mark additionally suggests that the Respondent's decision to register the Disputed Domain Name was intended to cause confusion with the Complainant's AVIDBANK Mark and to disrupt the Complainant's business. Such conduct indicates that the Respondent registered the Disputed Domain Name in bad faith.

Accordingly, the third element of paragraph 4(a) of the Policy has been met by the Complainant.

## **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 <avidlbank.com> be transferred to the Complainant.

/Lynda M. Braun/

**Lynda M. Braun**

Sole Panelist

Date: May 23, 2025