

ADMINISTRATIVE PANEL DECISION

Phoenix Group Management Services Limited v. Kevin Garvin, Garvin Insurance agency Inc
Case No. D2025-2488

1. The Parties

The Complainant is Phoenix Group Management Services Limited, United Kingdom, represented by Freeths LLP, United Kingdom.

The Respondent is Kevin Garvin, Garvin Insurance agency Inc, United States of America ("United States").

2. The Domain Name and Registrar

The disputed domain name <phoenixinvestmentadvisor.com> is registered with Sav.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on June 24, 2025. On June 25, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On June 25, 2025, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details. The Center sent an email communication to the Complainant on June 26, 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 June 26, 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 July 10, 2025. In accordance with the Rules, paragraph 5, the due date for Response was July 30, 2025. The Respondent sent email communications to the Center on July 22, 2025, and on July 30, 2025.

The Center appointed Warwick A. Rothnie as the sole panelist in this matter on August 7, 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

According to the Complaint, the Complainant is the United Kingdom's largest long-term savings and retirement business "servicing" the pensions, savings and life insurance needs of 12 million customers in the United Kingdom under its brands, including PHOENIX and PHOENIX LIFE.

The Complainant has its primary online presence at "www.thephoenixgroup.com". According to the Respondent, this domain name was registered in 1997.

The Complaint includes evidence that the Complainant owns a number of registered trademarks for PHOENIX, PHOENIX & device, PHOENIX FLEX, PHOENIX INSIGHTS & device and PHOENIXRE. The earliest application for these trademarks was PHOENIX FLEX registered with effect from May 3, 2023 in both the United Kingdom and the European Union: respectively Registered Trademark No. UK00003907452 and European Union Trade Mark No. 018869876; both being for a range business management, administration, advisory and educational and training services in International Classes 35 and 41.

The Complainant also owns Registered Trademarks Nos. UK00003981690, PHOENIX, and UK00003981797, PHOENIX & device, which have both been registered with effect from November 20, 2023 in respect of a range of services in International Classes 35, 36, 41 and 45.

The Panel also notes that the Complainant's International Registration No. 1770106, PHOENIXRE, which was registered on September 13, 2023 has matured into registrations in both the European Union and the United States, the latter being United States Registered Trademark No. 7813381 which was registered in the Principal Register on June 3, 2025 in respect of a wide range of accounting, marketing, management and financial services in International Classes 35 and 36.

According to the Whois report, the disputed domain name was registered on December 8, 2024.

It resolves to a website at which the disputed domain name is offered for sale.

The Respondent states that he has been an insurance broker since 1982. Apparently, he acts as a telesales insurance agent for many of the largest insurance companies in the United States and claims to market to customers across the United States. The Respondent also states that he started an advertising business in 2023 which is substantially operated online.

In April 2, 2025, the Complainant made an inquiry of the Respondent about the purchase price for the disputed domain name. The Respondent stated "An estimated price between USD2,810 and USD5,630".

Following that, on May 14, 2025, the Complainant's lawyers sent a cease and desist letter to the Respondent. The Respondent appears to have received that letter, "Which I was too afraid of getting a virus or spyware to open.", but did not reply.

5. Discussion and Findings

Paragraph 4(a) of the Policy provides that in order to divest the Respondent of a disputed domain name, the Complainant must demonstrate each of the following:

- (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.

Paragraph 15(a) of the Rules directs the Panel to decide the 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.

A. Identical or Confusingly Similar

The first element that the Complainant must establish is that the disputed domain name is identical with, or confusingly similar to, the Complainant's trademark rights.

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 proven ownership of a number of registered trademarks including the registration for PHOENIX and PHOENIX & device.

The comparison of the disputed domain name to the Complainant's trademark simply requires a visual and aural comparison of the disputed domain name to the proven trademarks. This test is narrower than and thus different to the question of "likelihood of confusion" under trademark law. Therefore, questions such as the scope of the trademark rights, the geographical location of the respective parties, the date they were acquired and other considerations that may be relevant to an assessment of infringement under trademark law are not relevant at this stage. Such matters, if relevant, may fall for consideration under the other elements of the Policy. See e.g. [WIPO Overview 3.0](#), section 1.7.

In undertaking that comparison, it is permissible in the present circumstances to disregard the generic Top Level Domain ("gTLD") component as a functional aspect of the domain name system. [WIPO Overview 3.0](#), section 1.11.

It is also usual to disregard the design elements of a trademark under the first element as such elements are generally incapable of representation in a domain name. Where the textual elements have been disclaimed in the registration or cannot fairly be described as an essential or important element of the trademark, however, different considerations may arise. See for example, [WIPO Overview 3.0](#), section 1.10. The figurative elements of the Complainant's trademarks are not so dominating that the verbal element cannot be considered an essential or important part of the trademarks in this case. Accordingly, it is appropriate to apply the usual rule.

Disregarding the ".com" gTLD, the disputed domain name consists of the Complainant's registered trademark and the term "investmentadvisor". As this requirement under the Policy is essentially a standing requirement, the addition of this term does not preclude a finding of confusing similarity. See e.g. [WIPO Overview 3.0](#), section 1.8. Apart from anything else, the Complainant's trademark remains visually and aurally recognisable within the disputed domain name.

Accordingly, the Panel finds that the Complainant has established that the disputed domain name is confusingly similar to the Complainant's trademark and the requirement under the first limb of the Policy is satisfied.

B. Registered and Used in Bad Faith

In the circumstances of this case, it is appropriate to consider the third requirement of the Policy next.

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint: see e.g. *Group One Holdings Pte Ltd v. Steven Hafto* WIPO Case No. [D2017-0183](#).

Paragraph 4(b) identifies situations which may demonstrate that registration or use of a disputed domain name was not in bad faith under the Policy:

For the purposes of paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of [the disputed] domain name in bad faith:

(i) circumstances indicating that [the Respondent] has registered or [the Respondent has] acquired the [disputed] domain name primarily for the purpose of selling, renting, or otherwise transferring the [disputed] domain name registration to the Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of [the Respondent's] documented out-of-pocket costs directly related to the [disputed] domain name; or

(ii) [the Respondent has] registered the [disputed] domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that [the Respondent has] engaged in a pattern of such conduct; or

(iii) [the Respondent has] registered the [disputed] domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the [disputed] domain name, [the Respondent has] intentionally attempted to attract, for commercial gain, Internet users to [the Respondent's] web site 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] web site or location.

The instances of bad faith set out in paragraph 4(b) of the Policy are examples only, intended to illustrate types of conduct which is caught by the Policy. See *Do The Hustle, LLC v Tropic Web* WIPO Case No. [D2000-0624](#).

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant.

The Complainant states it enjoys enormous goodwill and reputation in the name PHOENIX in respect of financial services as a result of the expenditure of a significant amount of time, money and effort. It contends that the disputed domain name is in direct contravention of its trademark rights and passing off. The Complainant further contends that it is inevitable Internet users will be confused into believing the disputed domain name has some form of association with the Complainant and therefore the registration of the disputed domain name is in bad faith.

The Respondent denies this, contending that there is no logical reason that consumers in the United Kingdom would think the disputed domain name was owned by the Complainant. The Panel does not accept that argument. At the very least, there is a real risk that consumers in the United Kingdom aware of the Complainant's trademark would think the holder of the disputed domain name was at least associated with the Complainant.

The Respondent, however, also denies knowledge of the Complainant or its trademark when registering the disputed domain name. He states:

"The Complainant constantly states in their complaint that they are well known in the UK. I have no idea if that is true or not, because I have never been to the UK, do not do business with anyone in the UK and have never heard of the Complainant's existence at all."

The fact that the Complainant appears to operate primarily, if not almost exclusively, in the United Kingdom and the Respondent is in the United States does not preclude a finding of bad faith under the Policy. As the Respondent is an insurance broker, the Panel cannot exclude the possibility that he was aware of the Complainant. Correspondingly, it is not necessarily implausible that a person in the position of the Respondent operating, it appears, in the domestic United States retail market for insurance and financial services would not know of the Complainant and its trademark.

In that connection, the Respondent points out that "Phoenix" is a noun and a descriptive term, amongst other things, being the name of the fifth largest city in the United States. The Panel also notes that the phoenix is a mythical, immortal bird which regenerates, and which is often used to represent renewal, rebirth or a fresh start.

The Respondent also points out that, according to a search of the tools at "www.dotdb.com" there are 95,935 domain names registered containing the word "phoenix" of which 246 contain both "phoenix" and one or other of "invest", "investor", "investors", "investment" or "investing". Thus, the Respondent appears to contend that he registered the disputed domain name in connection with his advertising business which he appears to claim owns "descriptive and brandable" domain names across many industries.

In the absence of evidence of domain names owned by the Respondent's claimed advertising business, the Panel would not be prepared to accept that latter claim at face value.

Nonetheless, on the very limited record before the Panel, the Panel is not prepared to go behind the Respondent's denial having regard to the descriptive nature of the term "Phoenix". That is, the Complainant (which has the onus under this head) has not persuaded the Panel that the Respondent registered the disputed domain name with the Complainant in mind or to target the Complainant's trademark.

Accordingly, the Complainant has not established the third requirement under the Policy and so cannot succeed.

C. Rights or Legitimate Interests

In light of the Panel's findings under the third requirement, it is neither necessary nor appropriate to address the second requirement as the Complaint must fail.

D. Reverse Domain Name Hijacking

The Respondent contends that the Panel should make a finding of reverse domain name hijacking against the Complainant.

Paragraph 15(e) of the Rules provides that, if after considering the submissions, the Panel finds that the Complaint was brought in bad faith, for example in an attempt at Reverse Domain Name Hijacking or to harass the domain-name holder, the Panel shall declare in its decision that the Complaint was brought in bad

faith and constitutes an abuse of the administrative proceeding. The mere lack of success of the complaint is not, on its own, sufficient to constitute reverse domain name hijacking. [WIPO Overview 3.0](#), section 4.16.

According to the Respondent, the Complainant failed to disclose the attempt to buy the disputed domain name in April before the filing of the Complaint and this is a classic “Plan B” case. That is not accurate, however. The Complainant did disclose the prior attempt through the inclusion of the cease and desist letter included in Annex 6. The Respondent can hardly complain that some further steps were taken against him when he failed to respond to that letter. The explanation offered for the Respondent’s failure is quite surprising in light of his claims to be operating two businesses involving telesales or otherwise online.

The Panel does not find this is a case of reverse domain name hijacking.

7. Decision

For the foregoing reasons, the Complaint is denied.

/Warwick A. Rothnie/

Warwick A. Rothnie

Sole Panelist

Date: August 25, 2025