ARBITRATION
AND
MEDIATION CENTER

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

ADMINISTRATIVE PANEL DECISION

LPL Financial LLC v. lpl lpl
Case No. DCC2023-0009

1. The Parties

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

Respondent is lpl lpl, United States.

2. The Domain Name and Registrar

The disputed domain name <lplmarketsvip.cc> (hereinafter "Disputed Domain Name") is registered with <Gname.com> Pte. Ltd. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on July 27, 2023. On July 27, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On July 31, 2023, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on July 31, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on August 4, 2023.

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 Respondent of the Complaint, and the proceedings commenced on August 8, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 28, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on August 31, 2023.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on September 6, 2023. 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

Complainant, LPL Financial LLC, offers retail financial advice services in the United States. Complainant owns several trademark registrations for LPL (hereinafter sometimes the "Mark"), including the following:

- United States Trademark Registration No. 1801076, registered on October 26, 1993;
- United Kingdom Trademark Registration No. UK00003753607, registered on May 13, 2022; and
- European Union Trade Mark No. 018653022, registered on May 26, 2022.

Respondent registered the Disputed Domain Name on May 28, 2023.

On June 26, 2023, Complainant's lawyers sent a cease-and-desist letter to Respondent, but received no response.

At the time of submission of the Complaint, the Disputed Domain Name resolved to an inactive web page.

5. Parties' Contentions

A. Complainant

Complainant contends that it has rights in the Mark; that the Disputed Domain Name is confusingly similar to the Mark; that it has not authorized Respondent to use its Mark and that Respondent does not have any rights or legitimate interests in the Disputed Domain Name; that Respondent registered the Disputed Domain Name in bad faith because Respondent likely knew of Complainant's well-known Mark when it registered the Disputed Domain Name without any plausible good faith purpose; and that Respondent's passive use is in bad faith.

Complainant contends that its LPL trademark is well known based on evidence that the Mark has been continuously and extensively used for well over 10 years, and has as a result acquired considerable reputation and goodwill, noting that prior Panelists have so found. See*, e.g., LPL Financial LLC v. Trever Phalms and Brentwood Towers*, WIPO Case No. D2015-0052.

In support of its contention that it is well known, and that Respondent was well aware of Complainant's rights, Complainant offers evidence that, founded in 1989, Complainant is one of the largest independent broker-dealers in the United States, serving independent financial advisors and financial institutions, helping them provide guidance to millions of clients in the United States.

Since 2010, Complainant has been publicly traded on the NASDAQ exchange under "LPLA". Complainant currently provides brokerage and investment advisory services to more than 21,000 clients including advisors at approximately 1,100 institution-based investment programs and at approximately 500 registered investment advisor firms. It manages over USD 1.1 trillion in advisory and brokerage assets. Complainant has over 4,800 employees. In the first quarter of 2023, LPL's gross profit reached over USD 1,020 million.

Complainant owns many domain names consisting of or containing "LPL", including, for example, <lpl.com>, registered in 1994, from which it operates its main corporate website. Complainant is also active on various social-media platforms. For instance, Complainant's official Facebook page has over 20,000 followers.

Complainant also contends that Respondent used false information when it registered the Disputed Domain Name. Complainant submits evidence that there is no company registered under the name "lpl lpl" in the

State of Florida; that no accurate street address was provided to the Registrar; and that the phone number listed is obviously fictitious (11234567891). Based on this evidence, Complainant contends that the Disputed Domain Name was registered using false registrant information.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the LPL trademark, as evidenced by its United States Trademark Registration No 1801076 (registered October 26, 1993). The Panel also finds that the Disputed Domain Name is confusingly similar to the Mark as it is recognizable in its entirety in the Disputed Domain Name. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.7. The addition of the terms "markets" and "vip" do not dispel the confusion, WIPO Overview 3.0, section 1.8. See also *LPL Financial LLC v. Privacy Service Provided by Withheld for Privacy ehf / Stefan Hain*, WIPO Case No. D2022-0542. The county code Top Level Domain "cc" may be disregarded for purposes of assessing this factor of the Policy. WIPO Overview 3.0, section 1.11.1.

The Panel finds that Complainant has satisfied Policy paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds that Respondent does not have rights or a legitimate interest in the Disputed Domain Name. Complainant has not authorized Respondent to use the Mark and there is no evidence that Respondent is commonly known by the Disputed Domain Name. On the contrary, Complainant submits evidence that Respondent has falsely identified itself as a Florida entity named "lpl lpl". According to state government records, there is no entity named "lpl lpl" in Florida. Complainant has presented a *prima facie* case for Respondent's lack of rights or legitimate interests in the Disputed Domain Name. "[W]here 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. 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. Respondent has not rebutted Complainant's *prima facie* case.

The Disputed Domain Name resolves to an inactive page. Non-use of a domain name "does not amount to use or preparations to use it in connection with a *bona fide* offering of goods and services". *LPL Financial LLC v. Privacy Service Provided by Withheld for Privacy ehf / Stefan Hain*, WIPO Case No. D2022-0542.

The Panel finds that Complainant has satisfied paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel finds that Respondent registered and uses the Disputed Domain Name in bad faith.

The Panel finds that Respondent was aware of Complainant and its rights when it registered the Disputed Domain Name. The trademark LPL is an inherently distinctive mark. Because the LPL trademark has no generic or descriptive meaning, there is no plausible good faith explanation for Respondent's selection of the of the Disputed Domain Name and the Panel finds that Respondent targeted Complainant's Mark.

The Panel finds that there is sufficient evidence that Complainant is well known in connection with financial advisory services, and, consequently, that Respondent likely had actual knowledge of Complainant and its rights when it registered the Disputed Domain Name. Furthermore, Respondent's inclusion of the term "markets" supports an inference that Respondent was aware that LPL was associated with financial services. *LPL Financial Services v 杨智超 (Yang Zhi Chao)*, WIPO Case No. D2021-0058.

In addition, Respondent's use of false contact information when registering the Disputed Domain Name supports the finding of bad faith registration. WIPO Overview 3.0, section 3.6 (provision of false contact information is evidence of bad faith). There is no company registered under the name "lpl lpl" in the State of Florida; no accurate street address was provided; and the listed phone number (+11234567891) is obviously fictitious.

The Panel also finds that Respondent's non-use of the Disputed Domain Name does not prevent a finding of use in bad faith. Although the Disputed Domain Name currently resolves to an inactive site, the evidence supports a finding of bad faith. Complainant's Mark is well known. Respondent did not respond to Complainant's letters or the Complaint. Respondent used false contact information when registering the Disputed Domain Name. And there is a high risk that Internet users and email recipients will mistakenly perceive an affiliation with Complainant. This evidence supports a finding of bad faith based on the doctrine of passive holding. *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. D2000-0003. See also WIPO Overview 3.0, section 3.3.

The Panel finds especially important the high risk that the Disputed Domain Name may be used as an email address to deliver fraudulent messages, such as phishing schemes. WIPO Overview 3.0, section 3.4 ("Panels have held that the use of a domain name for purposes other than to host a website may constitute bad faith. Such purposes include sending email, phishing, identity theft, or malware distribution."). This risk is heightened because the Disputed Domain Name is comprised of a trademark plus the term "VIP" that is commonly used in legitimate promotional email messages. It is easy to see how the Disputed Domain Name could be used as an email address to transmit a phishing message to one of Complainant's customers who might be flattered to be considered a "VIP." Because there is a high risk that the Disputed Domain Name could be used as an email address to impersonate Complainant, and Respondent did not respond denying allegations emphasizing this risk, the Panel draws adverse inferences against Respondent and credits Complainant's unrebutted allegations of bad faith use.

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 <lplmarketsvip.cc> be transferred to Complainant.

/Lawrence K. Nodine/
Lawrence K. Nodine
Sole Panelist
Date: September 20, 2023