



URS DEFAULT DETERMINATION

CFA Institute v. tu bo yang

Claim Number: FA1912001875687

DOMAIN NAME

<cfainstitute.site>

PARTIES

Complainant: CFA Institute of Charlottesville, Virginia, United States of America.
Complainant Representative: DLA Piper LLP (US) of Washington, District of Columbia, United States of America.

Respondent: tu bo yang of Huizhou City, Guangdong Province, CN.

REGISTRIES and REGISTRARS

Registries: DotSite Inc.

Registrars: Bizcn.com, Inc.

EXAMINER

The undersigned certifies that he has acted independently and impartially and to the best of his knowledge has no known conflict in serving as Examiner in this proceeding.

David L. Kreider, as Examiner.

PROCEDURAL HISTORY

Complainant submitted: December 17, 2019

Commencement: December 18, 2019

Default Date: January 3, 2020

Having reviewed the communications records, the Examiner finds that the FORUM has discharged its responsibility under URS Procedure Paragraphs 3 and 4 and Rule 4 of the Rules for the Uniform Rapid Suspension System (the "Rules").

RELIEF SOUGHT

Complainant requests that the domain name be suspended for the life of the registration.

STANDARD OF REVIEW

Clear and convincing evidence.

FINDINGS and DISCUSSION

Complainant, CFA Institute, is an internationally renowned global, not-for-profit association comprised of investment professionals, with over 150,000 members in 140 countries worldwide and 148 local member societies in seventy-three countries. Complainant is the exclusive administrator and grantor of the Chartered Financial Analyst designation and owner of the CHARTERED FINANCIAL ANALYST, CFA and CFA INSTITUTE trademarks (the "CFA Marks"). Since as early as 1962, Complainant and its predecessors-in-interest have continuously used the CFA Marks in commerce and invested significant amounts of time, money, and effort in advertising and promoting the CFA Marks.

Complainant registered the CFA INSTITUTE mark with the USPTO (Reg. No. 3202615, registered January 23, 2007). Past panels have held that registration of a mark with the USPTO is sufficient to establish a registrant's rights in a mark. *See T-Mobile USA, Inc. dba MetroPCS v. Ryan G Foo / PPA Media Services, FA 1627542* (Forum Aug. 9, 2015).

Even though the Respondent has defaulted, URS Procedure 1.2.6, requires Complainant to make a *prima facie* case, proven by clear and convincing evidence, for each of the following three elements to obtain an order that a domain name should be suspended:

1.2.6.1. that the registered domain name is identical or confusingly similar to a word mark: (i) for which the Complainant holds a valid national or regional registration and that is in current use; or (ii) that has been validated through court proceedings; or (iii) that is specifically protected by a statute or treaty in effect at the time the URS complaint is filed.

1.2.6.2. that the Registrant has no legitimate right or interest to the domain name; and

1.2.6.3. that the domain was registered and is being used in bad faith.

The Panel finds that the Disputed Domain Name <cfainstitute.site> is identical to Complainant's registered CFA Marks, as the Complainant's Mark CFA INSTITUTE is incorporated in its entirety at the second-level in the domain name. The top-level suffix "site" need not be considered for purposes of the confusing similarity test, as it is a technical requirement of registration. Even if the top-level domain were to be considered, however, the word "site", which is a common abbreviation for "web site", is incapable of distinguishing Respondent's use of Complainant's CFA Marks.

Complainant has no business relationship whatsoever with Respondent and has not licensed or otherwise permitted Respondent to use the CFA Marks or to apply for any domain name incorporating the CFA Marks. The Respondent has defaulted and has not submitted a response in these proceedings or sought to assert a legitimate right or interest in or to the Disputed Domain Name.

The Complainant's evidence shows that the Respondent is operating a website at the Disputed Domain Name containing identical unauthorized reproductions of the CFA Marks in conjunction with purported "CFA® Program Exam Results" pertaining to the Respondent, "boyang tu", achieved in the "2019 June Level II CFA Exam". The legend "© 2019 CFA Institute. All rights reserved" appears at the bottom of the Respondent's web site. These elements serve to create the erroneous impression that the site is the Complainant's official web site.

The Panel finds that the Respondent registered the Disputed Domain Name for the primary purpose of disrupting the business of a competitor and that the Complainant has presented clear and convincing evidence of the Respondent's bad faith registration and use of the Disputed Domain Name.

DETERMINATION

After reviewing the Complainant's submissions, the Examiner determines that the Complainant has demonstrated all three elements of the URS by a standard of clear and convincing evidence; the Examiner hereby Orders the following domain names be SUSPENDED for the duration of the registration:

<cfainstitute.site>



David L. Kreider, Esq.
Panelist

David L. Kreider, Examiner

Dated: January 04, 2020