1. PROCEDURAL HISTORY

1.1 The subject of this Proceeding is the domain name <levyзаветлп.com> ("Disputed Domain").

1.2 Namesilo ("Registrar") is the entity with whom Respondent has registered the Disputed Domain, and that registration continues.

1.3 On March 16, 2020, on behalf of Complainant, Mr. Jeff Levy submitted to Canadian International Internet Dispute Resolution Centre ("CIIDRC" or "Centre") a Complaint pursuant to the Uniform Domain Name Dispute Resolution Policy ("UDRP") and the Rules for Domain Name Dispute Resolution Policy ("UDRP Rules").

1.4 On March 20, 2020:

(a) pursuant to Section 4. (a) of the UDRP Rules, CIIDRC submitted a verification request to Registrar, by email; and

(b) in conformance with Section 4. (b) of the UDRP Rules, the Registrar responded to CIIDRC’s verification request with an email verifying that Respondent is the registrant of the Disputed Domain, and confirming that a Lock had been applied to the Disputed Domain.

1.5 On March 24, 2020, CIIDRC, as Dispute-Resolution Service Provider, confirmed administrative compliance of the Complaint and commencement of the dispute resolution process.
1.6 Pursuant to UDRP Rule 4 and Supplemental Rule 5, CIIDRC notified Respondent of this Proceeding and forwarded to Respondent a Notice with a login information and the link to the Complaint on March 24, 2020.

1.7 Respondent failed to file a Response by the due date of April 13, 2020.

1.8 Complainant elected a single-member Panel.

1.9 On April 17, 2020, CIIDRC appointed Robert A. Fashler, FCIarb., as a single-member panel in the above-referenced matter.

1.8 On April 30, 2020, the Panel issued Interim Order No 1, which reads:

1. Pursuant to Paragraph 12 and Subparagraphs 10. a. and b. of the Rules for Uniform Domain Name Dispute Resolution Policy ("Rules"), the Panel hereby orders that:

(a) the Complainant shall, on or before 14 May 2020, amend the Complaint by:

(i) clarifying the grounds alleged in the Complaint, and thereby ensuring that the Complaint complies strictly with all requirements set out Paragraph 3. b. of the Rules;

(ii) clarifying the purpose and relevance of references in the Complaint to the Digital Millennium Copyright Act of 1998; and

(iii) filing the Amended Complaint with the Canadian International Internet Dispute Resolution Centre ("Provider") in accordance with Provider's directions.

(b) the Respondent may, on or before 28 May 2020, file with Provider any statements and evidence in response to the Amended Complaint as it sees fit, in accordance with Provider's directions, and all such statements and evidence must comply with the requirements set out in Paragraph 5 of the Rules and will constitute the Response.

2. Pursuant to Subparagraphs 10. a., b., and c. of the Rules, the Panel, on its own motion, hereby:

(a) rules that the Order set out above constitutes an exceptional circumstance/case within the meaning of Subparagraphs 6. f., 10. c., and 15. b. of the Rules;

(b) orders that the date for issuing and filing the decision in this case is extended to 11 June 2020.

1.9 On May 28, 2020, Complainant filed an Amended Complaint pursuant to the UDRP, the UDRP Rules, and Interim Order No. 1. All references herein to the "Complaint", mean the Complaint as amended pursuant to Interim Order No. 1.

1.10 On May 14, 2020, CIIDRC forwarded the amended Complaint to Respondent by email, and invited Respondent to file statements and evidence by way of Response.

1.11 Respondent did not file a Response to the amended Complaint.
2. REMEDY SOUGHT

2.1 Complainant seeks transfer of the domain name <levyzavetllp.com> (the "Disputed Domain") to Complainant.

3. POSITION OF THE PARTIES

3.1 Complainant

Complainant relies on the following facts:

(a) Complainant is a small law firm located in Toronto, Canada that specializes in Real Estate, Business and Finance, Estates and Tax and Litigation. It has a good reputation.

(b) Complainant owns the domain name Levyzavet.com ("Complainant’s Domain");

(c) Complainant employs Complainant’s Domain as the URL for its website ("Complainant’s Website");

(d) Complainant owns the following registered trademarks ("Complainant’s Marks"), which are registered in the Canadian Intellectual Property Office:

<table>
<thead>
<tr>
<th>Mark</th>
<th>Reg. No.</th>
<th>Reg. Date</th>
<th>Goods &amp; Services</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEVY ZAVET</td>
<td>TMA884726</td>
<td>August 26, 2014</td>
<td>Legal services</td>
</tr>
<tr>
<td><img src="image.png" alt="Image" /></td>
<td>TMA884727</td>
<td>August 26, 2014</td>
<td>Legal services</td>
</tr>
</tbody>
</table>

(e) Complainant has been using Complainant’s Marks in association with legal services since 2012.

(f) Until recently, the Disputed Domain resolved to a website that intentionally reproduced the appearance and content of Complainant’s Website ("Respondent’s Website"). Both of Complainant’s Marks are displayed at Respondent’s Website in exactly the same manner and position as Complainant’s Marks are displayed at Complainant’s Website. Complainant refers to Respondent’s Website as the "Fake Site".
(g) Respondent employed Respondent’s Website to pose as Complainant and thereby lure the public into interacting with Respondent on the false pretense that Respondent was, in fact, Complainant. Complainant provides the following examples of such conduct:

(i) The content of Respondent’s Website "has been stolen from Levyzavet.com in its entirety and was duplicated throughout Levyzavetllp.com."; and

(ii) "The graphics, words, fonts, colours and content” depicted on Respondent’s Website "were exactly the same” as those on Complainant’s Website, "with the exception of the phone number which was listed in the upper left hand corner of the services page".

(h) Respondent has also misappropriated Complainant’s identity on written letters faxed directly to members of the public on letterhead stationary that falsely represented that it originated with Complainant ("Misleading Stationary"). The Misleading Stationary included the following deceptive information and material:

(i) it falsely represented that it was coming from Complainant, and specifically from “Co-Founder Jeff Levy”;

(ii) the letterhead displayed Complainant’s name and address and the name of Mr. Levy;

(iii) the letterhead displayed Complainant’s Mark LEVY ZAVET;

(iv) the letterhead displayed a phone number that is not the Complainant’s phone number;

(v) the letterhead displayed an email address for Mr. Levy (i.e. jlevy@levyvetllp.com) and a website URL for Complainant that mimicked Mr Levy’s email address (which incorporates the Complainant’s Domain) in all respects except that it added “llp” after “levyvet” (in other words, Respondent altered Mr. Levy’s email address and the URL for Complainant’s Website by substituting Complainant’s Domain Name with the Disputed Domain).

(i) Complainant’s evidence included two letters printed on Misleading Stationary, which were addressed to individuals. The purpose of these letters was to solicit the addressee’s participation in a “profiting proposal”. One such letter includes the following wording [sic]:


My name is Jeff Levy. I am the co-Founder of Levy Zavet LLP a Law Firm based in Toronto Canada.

It is my pleasure to contact you with this profiting proposal, though it may surprise you to receive this letter from me since there has been no previous correspondence between us. There is an unclaimed 'permanent life insurance policy' held by our deceased client.

The transaction pertains to an unclaimed 'Payable-on-Death' ('POD') savings monetary deposit in the sum of Ten Million Eight Hundred and twenty Thousand United States Dollars ($10,820,000) with a Reputable Bank. The policy holder was one of our clients, Mr. Alan Zwas, who worked with Energy Company in Canada. He died in an accident in Toronto Canada, Nine years ago. Since his death no one has come forward for the claim and all our efforts to locate his relatives have proved unsuccessful.

The insurance company code stipulates that all unclaimed 'insured permanent policies' must be turned over to the abandoned property division of the state after ten (10) years.

In view of the fact that you share the same last name and nationality with the deceased, I solicit for your consent to partner with me for the claim of this policy benefit as the beneficiary of the claim, if you consent to the above request, all proceeds will be processed on your behalf. With your approval, I propose the sharing of the proceeds as follows, 45% each and 10% to charity organisations.

This transaction is 100% risk free as there will be no violation of any civil or criminal laws. I have all the necessary documentation to expedite the process in a highly professional manner. I will provide all the relevant documents to substantiate your claim as the beneficiary, and it may take up to thirty (30) working days from the date of receipt of your consent.


(j) Complainant says:

The existence of the Fake Site was made known to the Complainant following complaints from several individuals who were receiving unsolicited faxes, a copy of which is attached as Schedule "F". The individuals contacted the Complainant and the Complainant notified the hosting company via takedown notice, a copy of which is attached as Schedule "G". The Fake Site has -since been suspended.

(k) Complainant has rights in the trademark LEVY ZAVET – it is registered in the Canadian Intellectual Property Office, and has been used by Complainant since 2012;

(l) Complainant’s rights in LEVY ZAVET predate the registration dates of the Disputed Domain;

(m) The disputed Domain is confusingly similar to the trademark LEVY ZAVET because:

(i) the only difference between the Disputed Domain and the trademark is "llp", which is not a unique identifier, and the TLD .com; and

(ii) Respondent used the Disputed Domain without permission and with the purpose of deceiving and manipulating the general public.
(n) Respondent has no rights or legitimate interests in respect of the Disputed Domain because:

(i) "Respondent did not offer any bona fide goods or services", and the Respondent "relied on the good will and trust built up by" the Complainant "to engage in underhanded and nefarious acts for financial gain";

(ii) Respondent committed "the criminal acts of theft of intellectual property, commercial impersonation, solicitation and identity theft of the potential clients from behind the cyber veil created by the Fake Site"; and

(iii) Respondent's "only intent was commercial gain by misleadingly [sic] the public and to divert consumers or to tarnish the trademark or service mark at issue."

(o) Respondent registered and used the Disputed Domain in bad faith because, quoting verbatim from the Complaint:

(i) The Fake Site was used to generate leads and to entice potential clients for fraudulent financial goods and services. Hundreds of unsolicited faxes were sent out to U.S. and Canadian based individuals and corporations from the Fake Site. These faxes claimed to be from Jeff Levy and proposed a profiting proposal based on unclaimed "permanent life insurance policy" held by a deceased client. These letters were marked with a fraudulent legal stamp.

(ii) If somebody responded to the unsolicited fax, the Fake Site would follow up with more details about the scheme, a financial breakdown of the profiteering, and asking the potential client to swear an affidavit with important personal data, as well as to wire a retainer.

(iii) ... the Respondent registered the Domain Name for the purpose of disrupting the business of the Complainant in order to cause the Complainant to purchase the Domain Name from the Respondent for the unreasonable price asked for by the Respondent.

(iv) The results of the Respondent's criminal schemes would have caused grievous injury to the reputation of the Complainant in the eyes of its current and future clientele, its governing body and its colleagues in the legal field and larger business community.

3.2 Respondent

(a) Respondent has not filed any Response.

4. PROCEDURAL RULINGS

4.1 Default Proceeding
(a) As noted above, Respondent has not filed a Response. In fact, Respondent had two separate opportunities to file a Response – first, in relation to the Complaint as originally filed, and second, in relation to the amended Complaint. Respondent failed to file a Response on both occasions.

(b) The Panel finds that this is a default Proceeding subject to Section 14 of the UDRP Rules, which reads:

14. Default

(a) In the event that a Party, in the absence of exceptional circumstances, does not comply with any of the time periods established by these Rules or the Panel, the Panel shall proceed to a decision on the complaint.

(b) If a Party, in the absence of exceptional circumstances, does not comply with any provision of, or requirement under, these Rules or any request from the Panel, the Panel shall draw such inferences therefrom as it considers appropriate. (emphasis added)

(c) Given that:

(i) Complainant’s submissions and evidence portray serious illegality and dishonesty on the part of Respondent;

(ii) Respondent failed, on two separate occasions, to respond to Complainant’s submissions and evidence; and

(iii) there is nothing on the record that would lead the Panel to call into question the veracity of Complainant’s evidence and submissions;

the Panel finds that it appropriate to draw the inference that Respondent does not dispute the veracity of Complainant’s evidence and submissions, and accepts Complainant’s evidence and submissions at face value.

5. REASONS

5.1 Complainant’s Onus

Paragraph 15 (a) of the Rules instructs this Panel to:

"decide a complaint on the basis of the statements and documents submitted 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 that Complainant must prove each of the following three elements to obtain an order that the Domain Names should be cancelled or transferred:

(i) the Domain Names are identical or confusingly similar to a trademark or service mark in which Complainant has rights; and

(ii) Respondent has no rights or legitimate interests in respect of the Domain Names; and

(iii) the Domain Names have been registered and are being used in bad faith.

5.2 Identical and/or Confusingly Similar

(a) Complainant has proven the existence of a Canadian trademark registration for LEVY ZAVET.

(b) the Disputed Domain is identical to that trademark except for the generic elements "llp" and " .com", as underlined below:

Levyzavetllp.com

(c) Minor generic differences, such as "llp" and " .com" cannot distinguish the Disputed Domain from LEVY ZAVET. Such minor bits of generic information are unconsciously expected and ignored by virtually all users of the Worldwide Web and email. See Jerry Damson, Inc. v. Tex. Int'l Prop. Assocs., FA 916991 (Nat. Arb. Forum Apr. 10, 2007) ("The mere addition of a generic top-level domain ("gTLD") ".com" does not serve to adequately distinguish the Domain Name from the mark."); see also Bond & Co. Jewelers, Inc. v. Tex. Int'l Prop. Assocs., FA 937650 (Nat. Arb. Forum Apr. 30, 2007) (finding that the elimination of spaces between terms and the addition of a gTLD do not establish distinctiveness from the complainant's mark under Paragraph 4 (a) (i)).

(d) Further, the evidence clearly establishes that the Disputed Domain is calculated to copy Complainant's Mark LEVY ZAVET and to cause confusion therewith. It was used together with additional information and material in an obvious scheme to deceive the public by causing them to believe that they were dealing with Complainant, apparently for the purpose of facilitating additional dishonest, presumably criminal, activity. For example, the Disputed Domain was employed in concert with, inter alia:

(i) another one of Complainant's Marks (i.e. the LZ logo shown above);
(ii) a complete imitation of Complainant’s Website;

(iii) Complainant’s address; and

(iv) impersonation of one of Complainant’s co-founders.

(e) Given Respondent’s dishonest use of the Disputed Domain, it is obvious that Respondent selected the Disputed Domain precisely because it is likely to be perceived by the average user of the Worldwide Web and email as identical to Complainant’s Mark LEVY ZAVET.

(f) The Panel finds that the Disputed Domain is, to all intents and purposes, identical to Complainant’s Mark LEVY ZAVET. In any event, the Disputed Domain is confusingly similar to Complainant’s Mark LEVY ZAVET.

(f) The Panel finds that Complainant has satisfied its burden under Paragraph 4 (a) (i) of the UDRP.

5.3 Rights or Legitimate Interests

(a) Complainant bears the onus of establishing a *prima facie* case that Respondent lacks rights and legitimate interests in the disputed domain name under Policy Section 4(a)(ii). Then, then the burden shifts to Respondent to show it does have rights or legitimate interests. See Hanna-Barbera Prods., Inc. v. Entm’t Commentaries, FA 741828 (Nat. Arb. Forum Aug. 18, 2006) (holding that the complainant must first make a prima facie case that the respondent lacks rights and legitimate interests in the disputed domain name under UDRP ¶ 4(a)(ii) before the burden shifts to the respondent to show that it does have rights or legitimate interests in a domain name); see also AOL LLC v. Gerberg, FA 780200 (Nat. Arb. Forum Sept. 25, 2006) (“Complainant must first make a prima facie showing that Respondent does not have rights or legitimate interest in the subject domain names, which burden is light. If Complainant satisfies its burden, then the burden shifts to Respondent to show that it does have rights or legitimate interests in the subject domain names.”).

(b) Complainant’s evidence clearly shows that Respondent registered and used the Disputed Domain exclusively for a dishonest purpose, namely, to deceive and exploit the public in the name of Complainant. Impersonating an active law firm, and an individual lawyer whose name appears in the law firm’s name, is a very useful way to inculcate trust among potential victims of fraud. Respondent used the Disputed Domain only for one purpose - to misrepresent itself to third parties as Complainant.
(c) It was essential to Respondent's scheme that members of the public would believe that they were communicating with Complainant, and not anyone else. Respondent's scheme would not have had any chance of succeeding if all rights in the Disputed Domain were not automatically associated with Complainant. Respondent's scheme was not legitimate. Far from it.

(d) Respondent has not filed any submissions or evidence.

(e) Using a domain name for apparently illegal activities cannot be the basis of rights or legitimate interests in a domain name. See: Haas Food Equipment GmbH v. Usman ABD, Usmandel, WIPO Case No. D2015-0285 (April 7, 2015), (the respondent in that case did not have rights or legitimate interests in the subject domain name because it was using the domain name for fraudulent purposes, as follows [sic]:

The essence of fraud is that the Respondent has used the Domain Name to pose as senior executive of the Complainant and to send false emails on behalf of that executive making the emails look like genuine emails coming from that executive. These false emails have then been used to reroute payments for the Complainant's goods to bank accounts in China, so they are received by the Respondent.

Also see: Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrenge, WIPO Case No. D2009-1017 (October 2, 2009) (The respondent had no rights or legitimate interests in the subject domain name because it had been using the domain name fraudulently "...to pretend that it is the Complainant and in particular to create false emails pretending that they are genuine emails coming from the Complainant and one of its senior executives" and using the false emails "to order goods from the Complainant's suppliers" ... "to attempt to have the Complainant pay for the goods so that they are received by the Respondent free of charge").

(f) The Panel finds that Complainant has satisfied its burden under paragraph 4 (a) (ii) of the UDRP.

5.4 Registration and Use in Bad Faith

(a) As reviewed at length above, it is clear from the evidence that Respondent registered and used the Disputed Domain in extreme bad faith, and that such bad faith was not directed solely at Complainant. Respondent's bad faith was directed even more intensely at innocent members the public whom Respondent hoped to deceive for illicit gain. Complainant was really just "collateral damage". In other words, Respondent impersonated Complainant to further an even more dishonest end – defrauding the public. Respondent could not care less
how its dishonest use of the Disputed Domain would harm Complainant’s reputation and even expose it to legal claims.

(b) Respondent’s bad faith extends beyond the usual forms of bad faith exhibited by cybersquatters, some of which are addressed in Paragraph 4 (b) of the UDRP. However, for Respondent’s scheme to work, it would also have to accomplish the specific form of bad faith identified in Paragraph 4. (b) (iv) of the UDRP, namely:

by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your 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 your web site or location or of a product or service on your web site or location.

(d) It was essential to Respondent’s scheme that victims of its deception would believe that they were dealing with Complainant, and not Respondent. Further, those victims would have to believe that the URLs and email addresses employed by Respondent connected with Complainant and not Respondent. The Panel finds that Respondent registered and used the Disputed Domain in bad faith the manner specified in Paragraph 4. (b) (iv) of the UDRP.

(e) The UDRP does not limit bad faith to the specific activities enumerated in Paragraph 4. (b) of the UDRP. See Digi Int’l Inc. v. DDI Sys., FA 124506 (Forum Oct. 24, 2002) (determining that Paragraph 4 (b) of the Policy only sets forth certain circumstances, without limitation, that shall be evidence of registration and use of a domain name in bad faith).

(f) It is well established that use of domain names to perpetrate fraud is a bad faith use. See: Haas Food Equipment GmbH v. Usman ABD, Usmandel, supra; and Graybar Services Inc. v. Graybar Elec, Grayberinc Lawrenge, supra.

(g) The Panel finds that Respondent’s registration and use of the Disputed Domain to impersonate Complainant while engaging in illicit activity intended to victimize members of the public was in extreme bad faith as contemplated in the general statement of bad faith set out in Paragraph 4. (a) (iii) of the UDRP.

(h) The Panel finds that Complainant has satisfied its burden under Paragraph 4 (a) (iii) of the UDRP.

6. DECISION

The Panel finds that Complainant has satisfied its burden under all three elements stipulated in paragraph 4 (a) of the UDRP.
7. ORDER

The Panel orders that the domain name <levyzavetllp.com> be TRANSFERRED from Respondent to Complainant.

Made as of 11 June 2020.

[Signature]

Robert A. Fashler FCIArb.