

ADMINISTRATIVE PANEL DECISION

Discover Financial Services v. Jason L Monroe
Case No. D2023-4246

1. The Parties

Complainant is Discover Financial Services, United States of America (U.S.), represented by Elster & McGrady LLC, U.S.

Respondent is Jason L Monroe, U.S.

2. The Domain Name and Registrar

The disputed domain name <discoverpersonalloans.com> (the “Domain Name”) 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 October 11, 2023. On October 12, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. Also on October 12, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to Complainant on October 18, 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 October 24, 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 November 7, 2023. In accordance with the Rules, paragraph 5, the due date for Response was November 27, 2023. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on November 29, 2023.

The Center appointed Harrie R. Samaras as the sole panelist in this matter on December 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 is a credit card issuer and electronic payment services company. It offers the DISCOVER Credit Card in addition to offering personal and student loans, online savings products, certificates of deposit and money market accounts through its DISCOVER Bank subsidiary. Complainant's payment businesses consist of DISCOVER NETWORK with millions of merchants and cash access locations; PULSE, an ATM/debit network; and DINERS CLUB INTERNATIONAL, a global payments network with acceptance in more than 185 countries and territories. Complainant has thousands of employees and the products and services sold under the DISCOVER Mark are advertised and promoted around the world.

Complainant operates its website at the Domain Name <discover.com>, which can also be accessed through <discoverfinancial.com>, where customers can log into their confidential accounts and where Complainant provides consumer information about its goods and services.

Complainant owns U.S. Trademark Reg. No. 1,479,946 (registered March 8, 1988) and U.S. Trademark Reg. No. 3,025,822 (registered December 13, 2005) for the DISCOVER Mark, and U.S. Trademark Reg. No. 5,030,156 (registered August 30, 2016) for the DISCOVER PERSONAL LOANS Mark, (collectively, "the Marks").

The Domain Name was registered on January 29, 2019. It resolves to a webpage with pay-per-click links to sponsored sites, namely: "Personal Loans for Debt", "Apply for Personal Loan", and "Credit Personal Loan" which are businesses that compete with Complainant. For example, when you click on the link for "Personal Loans for Debt" you are taken to a sponsored link for Fast Loan Direct where you can apply for a loan.

5. Parties' Contentions

A. Complainant

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the of the Domain Name.

Notably, Complainant contends that the Domain Name is confusingly similar to the Marks because it fully incorporates Complainant's DISCOVER and DISCOVER PERSONAL LOAN Marks. The Domain Name adds only an extra letter "s" and the generic Top-Level Domain <.com> to the DISCOVER PERSONAL LOAN Mark, which do not sufficiently differentiate the Domain Name from the Marks. Here, the extra letter "s" only makes the Domain Name more confusingly similar and the Domain Name adds only terms related to the goods and services for which the DISCOVER Marks are registered or advertised.

Respondent has inaccurately referred to itself in the Whois database as "Redacted for Privacy," and has apparently referred to itself as "Jason L Monroe," per the WIPO Notice identifying this additional name under which he operates. Respondent has never been commonly known by the Marks nor any variations thereof and has never used any trademark or service mark similar to the Domain Name by which it may have come to be known. Complainant has not granted Respondent any license, permission, or authorization by which it could own or use any domain name registrations which are confusingly similar to any of the Marks. Respondent is passively holding the Domain Name where it resolves to pay-per-click ads, which does not constitute a *bona fide* or legitimate business use.

There is no reason for Respondent to have registered the Domain Name other than to trade off the reputation and goodwill of the Marks and to disrupt Complainant's business. The makeup of the Domain

Name itself and the nature of use evidences bad faith registration and use. Even if Respondent were to argue that he was somehow unaware of Complainant's rights in the Marks, had Respondent conducted a preliminary trademark search or even a simple browser search, he would have found Complainant's various trademark registrations, the websites associated with the Marks, and numerous additional references in commerce, on the Internet, and in publications, evidencing Complainant's use of the Marks in connection with its goods and services.

Respondent is using the Domain Name to capitalize on Internet users' efforts to find Complainant's website by using the Marks in the Domain Name. Respondent is engaged in a pattern of cybersquatting having been the unsuccessful party to previous UDRP complaints. Evidence that Respondent has been an unsuccessful respondent in prior UDRP cases shows a clear pattern of bad faith conduct. The addition of letters to the Domain Name is typosquatting and is further evidence of bad faith registration and use. The Domain Name is a clear typo of the DISCOVER PERSONAL LOANS Mark.

Additionally, mail exchange records have been setup by Respondent on the Domain Name, which is a clear indication that Respondent has made preparations to circulate emails that could potentially contain spam or fraudulent phishing emails, thereby presenting a grave risk to consumers. Lastly, using a privacy service to conceal its identity, while using the Marks in the Domain Name to create an association with Complainant should also be considered as evidence of bad faith registration and use.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

A. Identical or Confusingly Similar

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.

Based on the available record, the Panel finds Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the DISCOVER Mark and the DISCOVER PERSONAL LOANS Mark are recognizable within the Domain Name. Accordingly, the Domain Name is confusingly similar to the DISCOVER Mark and the DISCOVER PERSONAL LOANS Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7. The addition of the "s" to the DISCOVER PERSONAL LOANS Mark to create a misspelling of the word "personal" does not change the finding of confusing similarity. [WIPO Overview 3.0](#), section 1.9.

Although the addition of other terms, here "personal loans" to the DISCOVER Mark, may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the Domain Name and the DISCOVER Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Based on the available record, the Panel finds 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 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 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. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds Complainant has established a *prima facie* case that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has not rebutted Complainant’s *prima facie* showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the Domain Name such as those enumerated in the Policy or otherwise.

It is uncontroverted that: (1) Respondent has not been commonly known by either DISCOVER or DISCOVER PERSONAL LOANS nor any variations thereof and has never used any trademark or service mark similar to the Domain Name by which it may have come to be known. Respondent was disclosed as “Jason L Monroe;” (2) Complainant has not granted Respondent any license, permission, or authorization by which it could own or use any domain name registrations which are confusingly similar to the DISCOVER Marks; and (3) Respondent’s use of the Domain Name to resolve to a webpage with pay-per-click ads for services that compete with those of Complainant, does not constitute a *bona fide* or legitimate business use ([WIPO Overview 3.0](#), section 2.9).

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

C. Registered and Used in Bad Faith

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.

In the present case, the Panel notes that Respondent registered the Domain Name long after Complainants began using the Marks and long after the Marks became well-known internationally. Adding the term “personal loans” (a term describing an aspect of Complainant’s business) to the DISCOVER Mark indicates that it is likely Respondent was aware of that Mark and that aspect of Complainant’s business. Likewise, incorporating the entirety of the DISCOVER PERSONAL LOANS Mark in the Domain Name and simply adding an extra letter “s” indicates that it is likely Respondent was aware of that Mark and the business Complainant transacts under that Mark. Moreover, using the Domain Name to resolve to a webpage with pay-per-click links to sponsored websites offering loan services competing with Complainant’s loan services is further evidence that Respondent knew of the Marks and their connection to an aspect of Complainant’s business. Thus, the Panel concludes that Respondent registered the Domain Name in bad faith.

There is no reason for Respondent to have registered the Domain Name other than to trade off the reputation and goodwill of the Marks and to disrupt Complainant’s business. That is, Respondent is using a confusingly similar Domain Name to capitalize on Internet users’ efforts to find Complainant’s website, for example for personal loan services, by using the Marks in the Domain Name to take Internet users to competitive sites. Furthermore, Respondent is engaged in a pattern of cybersquatting having been the unsuccessful party to previous UDRP complaints. See, for example, *The Commissioners for HM Revenue and Customs v. Jason L Monroe*, WIPO Case No. [D2023-2743](#), and *Sodexo v. Jason L Monroe*, WIPO Case No. [DCO2022-0018](#). Evidence that Respondent has been an unsuccessful respondent in prior UDRP cases shows a clear pattern of bad faith conduct.

Having reviewed the record, the Panel finds that Respondent’s registration and use of the Domain Name constitutes bad faith under the Policy.

Based on the available record, the Panel finds that Complainant has established the third element of the Policy.

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 Domain Name <discoverperssonalloans.com> be transferred to Complainant.

/Harrie R. Samaras/

Harrie R. Samaras

Sole Panelist

Date: December 14, 2023