

ADMINISTRATIVE PANEL DECISION

**Clover Network, LLC v. Registration Private, Domains By Proxy, LLC /
Support GDMSA, Global Digital Media SA
Case No. D2022-2516**

1. The Parties

The Complainant is Clover Network, LLC, United States of America (“United States”), represented by Barker Brettell LLP, United Kingdom.

The Respondent is Registration Private, Domains By Proxy, LLC, United States / Support GDMSA, Global Digital Media SA, Switzerland, internally represented.

2. The Domain Name and Registrar

The disputed domain name <cloverskypay.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 11, 2022. On July 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 13, 2022, 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 the Complainant on July 19, 2022 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 July 19, 2022.

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 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 10, 2022. On July 26, 2022, the Respondent requested an extension of the due date for filing of the Response. On July 29, 2022, the Center extended the due date for the submission of the Response to August 14, 2022. On July 29, 2022, the Respondent requested a second extension of the due date for filing of the Response. On August 4, 2022, the Center invited the Complainant

to comment on this request of the Respondent. The Complainant did not file comments on it, and on August 10, 2022, the Center exceptionally extended the due date for the Response until August 18, 2022. The Response was filed with the Center on August 15, 2022.

The Center appointed Assen Alexiev, Adam Taylor, and Philippe Gilliéron as panelists in this matter on October 11, 2022. The Panel finds that it was properly constituted. Each member of 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

The Complainant was established in 2012. It is a developer of open architecture point-of-sale solutions for small and medium-sized business owners. In the quarter ended September 2020, the Complainant processed USD 133 billion of annualized card transactions worldwide under the CLOVER trademark, making it the largest cloud point-of-sale firm in the United States. According to the Complainant, this amounts to over 2 billion interactions with customers on an annual basis, with 400 million unique cards being processed annually.

The Complainant is the owner of the following trademark registrations for the sign “CLOVER” (the “CLOVER trademark”):

- the United Kingdom trademark CLOVER with registration No. UK00912078119, registered on May 25, 2014 for goods and services in International Classes 9, 36, and 42;
- the European Union trademark CLOVER with registration No. 012078119, registered on May 25, 2014 for goods and services in International Classes 9, 36, and 42;
- the European Union trademark CLOVER with registration No. 011782554, registered on August 21, 2013 for services in International Class 42;
- the United States trademark CLOVER with registration No. 4498176, registered on March 18, 2014 for services in International Class 35;
- the United States trademark CLOVER with registration No. 4227414, registered on October 16, 2012 for services in International Class 36;
- the United States trademark CLOVER with registration No. 4622248, registered on October 14, 2014 for goods in International Class 9; and
- Swiss trademark CLOVER with registration No. 654283, registered on February 4, 2014 for goods and services in International Classes 9 and 42.

The disputed domain name was registered on November 30, 2017. It resolves to a website offering an online subscription management service. According to this website, it allows users “to identify and manage payments made on one of its sites”.

5. Parties’ Contentions

A. Complainant

The Complainant states that the disputed domain name is confusingly similar to its CLOVER trademark, because it incorporates this trademark, and the addition of the words “pay” and “sky” does not preclude a finding of confusingly similarity to the Complainant’s earlier trademark.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because the Complainant has never authorized it to use the distinctive CLOVER trademark, the registration of which predates the Respondent’s use of CLOVER in the disputed domain name by six years. According to the Complainant, the Respondent is not known by the disputed domain name and does not use it in connection with any business earlier than that of the Complainant. The Complainant states that

it commissioned an investigation into the operation of the disputed domain name, which revealed that the Respondent owns over 300 domain names hosted on the same server, the majority of which are named after services relating to payments, and the associated websites offer payment services and indicate as contact the same phone number in the United Kingdom. The Complainant maintains that this activity of the Respondent in the same commercial market on which the Complainant operates is an attempt to exploit the reputation of the CLOVER trademark.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It points out that in 2017, when the disputed domain name was registered, the Complainant owned a considerable number of trademark registrations for the CLOVER trademark. The Complainant refers to the investigation report attached to the Complaint, which shows that the Respondent is involved in the business of registering domain names. According to the Complainant, since its CLOVER trademark has been extensively publicized worldwide and is duly registered in and added to a publicly accessible database of protected trademarks in a number of jurisdictions, it can only be assumed that, at the time of registration of the disputed domain name, the Respondent knew or should have known of the existence of this trademark. The Complainant concludes that the Respondent's registration of the disputed domain name was not coincidental but was an attempt to trade off the goodwill of the CLOVER trademark.

B. Respondent

The Respondent maintains that the disputed domain name is not identical or confusingly similar to the CLOVER trademark. It submits that the only part of the disputed domain name that is identical to this trademark is the word "clover", which is descriptive of a herb or a common plant and is widely used on the Internet for various activities, and is also the name of a city in the United States. According to the Respondent, the Complainant does not have exclusive rights to the term "clover", and its registrations of CLOVER trademark do not grant it an exclusive right to use any variations of the trademark throughout the world. The Respondent also notes that there are many domain names that incorporate the term "clover" and an Internet search of this term receives many search results. The Respondent adds that the incorporation of the terms "sky" and "pay" distinguishes the disputed domain name from the CLOVER trademark.

The Respondent submits that its online business at the disputed domain name is legitimate and has been operated for five years. According to it, this business has more than 1,000,000 registered customers, has delivered more than 10 million orders and employs more than 50 people across Europe. The Respondent alleges that the disputed domain name is also a recognized brand with a good reputation in Europe.

The Respondent maintains that it registered the disputed domain name in 2017 in good faith, and not because of the popularity of the Complainant's business or domain name. It states that it does not market the business at the disputed domain name in a way that disrupts the Complainant's business or misleads consumers. According to the Respondent, there is no evidence that the Complainant's business has been negatively affected by the Respondent's activities or that the Complainant's customers have been misled. The Respondent adds that it does not advertise the combination "cloverskypay" on Google and has never bought any keywords related to "clover".

6. Discussion and Findings

Pursuant to the Policy, paragraph 4(a), the Complainants must prove each of the following to justify the transfer of the disputed domain name:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainants have rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the Respondent has registered and is using the disputed domain name in bad faith.

A. Identical or Confusingly Similar

The Complainant has provided evidence that it is the owner of the CLOVER trademark and has thus established its rights in this trademark for the purposes of the Policy.

The disputed domain name incorporates the CLOVER trademark with the addition of the words “sky” and “pay”. The CLOVER trademark appears at the beginning of the “cloverskypay” sequence and is recognizable in the disputed domain name. As discussed in section 1.8 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.

In addition, the Respondent’s website at the disputed domain name (notably containing the word “pay”) offers a subscription management service. This service is similar to the services offered by the Complainant and included in the scope of protection of the CLOVER trademark, such as payment transaction processing services, electronic processing and transmission of payment data. As discussed in more detail in the sections of this decision that follow, it appears more likely that the Respondent has registered the disputed domain name because it believed that it was confusingly similar to the CLOVER trademark of the Complainant, all the more so given the lack of any explanation by the Respondent why it has chosen the disputed domain name for its business. This is an additional argument for a finding of confusing similarity between the disputed domain name and the Complainant’s trademark. See section 1.7 of the [WIPO Overview 3.0](#).

In view of the above, the Panel finds that the disputed domain name is confusing similar to the CLOVER trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Complainant submits that it has never authorized the Respondent to use the CLOVER trademark, which predates the registration of the disputed domain name by six years, and the Respondent is not known by the disputed domain name. The Complainant submits an investigation report into the operation of the disputed domain name which indicates that the Respondent owns over 300 domain names hosted on the same server, the majority of which are named after services relating to payments, and the associated websites offer payment services and share the same phone number.

The Respondent submits that the CLOVER trademark of the Complainant does not grant it an exclusive right to any variations of the trademark around the world and points out that there are many domain names that incorporate the term “clover”. The Respondent states, without supporting evidence, that its online business has been operated for five years, has more than 1,000,000 registered customers, and has delivered more than 10 million orders.

The Respondent however makes no comments on the findings of the investigation report submitted by the Complainant and provides no explanation why it has chosen to register the disputed domain name for its business. It also does not deny its knowledge of the Complainant or the similarity of the services offered by the Parties. The investigation report submitted by the Complainant contains findings that the Respondent is the registrant of hundreds of domain names many of which indeed contain the word “pay” and refer to websites offering payment services. The Panel regards the word “clover” as a distinctive name to use in conjunction with payment services. Taking into account the very numerous domain names registered by the Respondent and used for payment services, it seems inconceivable that the Respondent did not know the CLOVER trademark and selected the disputed domain name for use in the same industry without targeting the Complainant.

All this taken together leads the Panel to the conclusion that it is more likely than not that the Respondent knew of the Complainant when it registered the disputed domain name and that the Respondent registered it

to target the CLOVER trademark in connection with services similar to the services offered by the Complainant under the CLOVER trademark which had been registered seven years before the disputed domain name. The Panel does not regard such conduct as giving rise to rights or legitimate interests in the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The disputed domain name is confusingly similar to the CLOVER trademark, which has various registrations around the world that were made several years before the registration of the disputed domain name. The Respondent does not deny its knowledge of the Complainant and has provided no explanation why it chose to register the disputed domain name and use it for a website offering subscription management services. The investigation report submitted by the Complainant and not disputed by the Respondent shows that the Respondent owns hundreds of domain names hosted on the same server, the majority of which are named after services relating to payments, and the associated websites offer payment services and indicate as contact the same phone number. As noted by the Complainant, this activity of the Respondent is in the same commercial market as that of the Complainant.

The above, in the absence of any evidence to the contrary, leads the Panel to the conclusion that it is more likely than not that the Respondent knew of the Complainant when it registered the disputed domain name and registered it to target the CLOVER trademark in connection with services similar to the services offered by the Complainant under the CLOVER trademark.

This satisfies the Panel that the Respondent has engaged in the conduct referred to in Paragraph 4(b)(iv) of the Policy, *i.e.*, that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website, by creating a likelihood of confusion with the Complainant's CLOVER trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website or of the services offered on this website.

Therefore, the Panel finds that the disputed domain name was registered and is being used in bad faith.

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 <cloverskypay.com> be transferred to the Complainant.

/Assen Alexiev/
Assen Alexiev
Presiding Panelist

/Adam Taylor/
Adam Taylor
Panelist

/Philippe Gilliéron/
Philippe Gilliéron
Panelist
Date: October 26, 2022