

ADMINISTRATIVE PANEL DECISION

Capital One Financial Corporation v. Milen Radumilo
Case No. D2022-4306

1. The Parties

Complainant is Capital One Financial Corporation, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

Respondent is Milen Radumilo, Romania.

2. The Domain Name and Registrar

The disputed domain name is <capitaloneshoppings.com> which is registered with NamePal.com #8028, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 11, 2022. On November 14, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 14, 2022, the Registrar transmitted by email to the Center its verification response confirming that Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 Respondent of the Complaint, and the proceedings commenced on November 16, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 6, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent’s default on December 14, 2022.

The Center appointed Gerardo Saavedra as the sole panelist in this matter on January 10, 2023. This Panel finds that it was properly constituted. This 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, headquartered in the United States, is a leading financial services institution that operates in three major business segments: credit card, consumer banking and commercial banking.

Complainant has rights over the CAPITAL ONE mark for which it holds, among others, United States registration No. 2065991, registered on May 27, 1997, in class 36; and European Union registration No. 000024299, registered on August 7, 2000, in classes 36 and 39. Complainant also has rights over the CAPITAL ONE SHOPPING mark for which it holds United States registration No. 6747694, registered on May 31, 2022, in class 35, with stated first use in commerce on October 5, 2020.

The disputed domain name was registered on October 3, 2022. At the time the Complaint was filed the website linked to the disputed domain name showed, among others, <capitaloneshoppings.com>, “Related searches”, “Low Interest Rate Business Credit Cards”, “One Card Apply”, “Car Finance”, “Buy this domain”.

5. Parties’ Contentions

A. Complainant

Complainant’s assertions may be summarized as follows.

Established in 1994, Complainant has embraced and executed a disruptive strategy over the years to drive its expansion, having received numerous industry accolades, such as Fortune World’s Most Admired Companies, Bloomberg’s Gender Equality Index and Forbes’ Best Employers for Diversity, among many others.

Complainant is the owner of mark registrations across various jurisdictions and maintains a strong Internet presence, communicating with its customers and promoting its range of products and services through its website and social media profiles. Complainant registered its primary domain name <capitalone.com> on March 13, 1995. According to SimilarWeb.com, Complainant’s website at said domain is the 218th most popular website globally and 62nd in the United States, having received 118.3 million visits during May 2022 alone.

Complainant registered the domain name <capitaloneshopping.com> on July 29, 2020. Capital One Shopping is Complainant’s free browser extension that automatically searches for online coupons, better prices, and rewards at over 30,000 online retailers. Said free extension can be downloaded at Complainant’s website under said domain name, which had an estimated 19.1 million individual visits in May 2022 pursuant to SimilarWeb.

The disputed domain name is confusingly similar to Complainant’s CAPITAL ONE SHOPPING mark. The disputed domain name varies from Complainant’s mark by just one letter: Respondent added an extra “s” at the end of Complainant’s CAPITAL ONE SHOPPING mark, which is a purposeful misspelling of said mark.

Respondent has no rights or legitimate interests in respect of the disputed domain name. Respondent is not sponsored by or affiliated with Complainant in any way, and Complainant has not given Respondent permission to use Complainant’s marks in any manner, including in domain names. Respondent is not commonly known by the disputed domain name, and Respondent’s name does not resemble the disputed domain name in any manner.

Respondent is using the disputed domain name to feature links to third-party websites, some of which directly compete with Complainant’s business. Presumably, Respondent receives pay-per-click (“PPC”) fees from the linked websites that are listed at the disputed domain name’s website. Prior UDRP decisions have

consistently held that respondents that monetize domain names using PPC links have not made a *bona fide* offering of goods or services that would give rise to rights or legitimate interests.

Respondent's posting of the "Buy this domain" link at the disputed domain name's website, which takes an Internet user to a website where the user is able to contact GoDaddy's Broker Service to purchase it, strongly suggests that Respondent does not have any rights or legitimate interests in the disputed domain name.

The disputed domain name was registered and is being used in bad faith. Complainant and its marks are known internationally, with mark registrations across numerous countries. Complainant has marketed and sold its goods and services using its CAPITAL ONE mark since 1994, which is well before Respondent's registration of the disputed domain name. Complainant's registration of <capitalone.com> and <capitaloneshopping.com> also predate the disputed domain name's registration date.

At the time of registration of the disputed domain name, Respondent knew, or at least should have known, of the existence of Complainant's marks. Searches across a number of Internet search engines for "capital one shoppings" return multiple links referencing Complainant and its business. By registering the disputed domain name, which comprises a one-letter misspelling of Complainant's CAPITAL ONE SHOPPING mark, Respondent has demonstrated a knowledge of and familiarity with Complainant's brand and business, which strongly implies bad faith.

The disputed domain name creates a likelihood of confusion with Complainant and its marks, leading to misperceptions as to its source, sponsorship, affiliation, or endorsement, which demonstrates Respondent's intent to capitalize on the fame and goodwill of Complainant's marks in order to increase traffic to the disputed domain name's website for Respondent's own pecuniary gain, as evidenced by the presence of multiple PPC links posted therein, and thus, it must be considered as having been registered and used in bad faith.

Typosquatting itself has been taken as evidence of bad faith registration and use by past UDRP Panels. The disputed domain name is a slight misspelling of Complainant's CAPITAL ONE SHOPPING mark, as well as its <capitaloneshopping.com> domain name, and Respondent is attempting to capitalize on typing errors committed by Complainant's customers in trying to locate Complainant on the Internet.

Respondent has been previously involved in more than 100 UDRP cases.¹ Prior UDRP Panels have concluded that evidence of prior decisions in which domain names have been transferred away from Respondent to complaining parties supports a finding that Respondent has engaged in a pattern of cybersquatting. Moreover, Respondent has registered numerous domain names that infringe on third party marks, such as <lorealbeautyoutlet.us>, <netflixz.us>, <pepsico.us>, and <volvocrs.us>, and has also registered <capitalone-com.us> and <capitalonecareers.us> which infringe upon Complainant's CAPITAL ONE mark.² All that demonstrates Respondent's pattern of cybersquatting, which is evidence of bad faith registration and use.

The disputed domain name's website features a "Buy this domain" banner, with a link that takes interested users to another website, where they may pursue their interest in purchasing it. It is well established that seeking to profit from the sale of a confusingly similar domain name that incorporates a third party's mark demonstrates bad faith.

Complainant requests that the disputed domain name be transferred to Complainant.

¹ Among others, Complainant cites *Moderna, Inc., and ModernaTX, Inc. v. Milen Radumilo*, WIPO Case No. [D2022-2654](#); *Equifax Inc. v. Milen Radumilo*, WIPO Case No. [D2022-0780](#); *American Airlines, Inc. v. Super Privacy Service LTD c/o Dynadot / Milen Radumilo*, WIPO Case No. [D2021-1242](#); and *Sociedad de Ahorro y Credito Credicomer, Sociedad Anonima v. Milen Radumilo*, WIPO Case No. [D2020-2885](#).

² Complainant provided the corresponding Whois reports for such domain names, all showing Respondent as their registrant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

Paragraph 15(a) of the Rules instructs the Panel to “decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

The lack of response from Respondent does not automatically result in a favorable decision for Complainant (see *Berlitz Investment Corp. v. Stefan Tinculescu*, WIPO Case No. [D2003-0465](#), and section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The burden for Complainant, under paragraph 4(a) of the Policy, is to show: (i) that the disputed domain name is identical or confusingly similar to a trademark or service mark in which Complainant has rights; (ii) that Respondent has no rights or legitimate interests in respect of the disputed domain name; and (iii) the disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

It is undisputed that Complainant has rights over the CAPITAL ONE and CAPITAL ONE SHOPPING marks.

Since the addition of a generic Top-Level Domain (*i.e.* “.com”) after a domain name is technically required, it is well established that such element may be disregarded where assessing whether a domain name is identical or confusingly similar to a mark. Taking into account the aforesaid, it is clear that the disputed domain name almost identically reproduces the CAPITAL ONE SHOPPING mark. This Panel considers that such mark is recognizable in the disputed domain name and that the additional letter “s” at the end in the disputed domain name does not avoid a finding of confusing similarity with said mark (see sections 1.7 and 1.9 of the [WIPO Overview 3.0](#)).

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

B. Rights or Legitimate Interests

Complainant contends that it has not authorized Respondent to use its marks, that Respondent is not commonly known by the disputed domain name, that the disputed domain name creates a likelihood of confusion with Complainant and its marks, and that Respondent is not using the disputed domain name in connection with any legitimate non-commercial or fair use without intent for commercial gain. The evidence in the file shows that the website associated with the disputed domain name shows hyperlinks, apparently of PPC nature, to other web pages.

This Panel considers that Complainant has established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain name.³ In the file there is no evidence of circumstances of the type specified in paragraph 4(c) of the Policy or of any other circumstances giving rise to a possible right to or legitimate interest in the disputed domain name by Respondent.

Based on the aforesaid, this Panel concludes that paragraph 4(a)(ii) of the Policy is satisfied.

³ See *Casio Keisanki Kabushiki Kaisha (Casio Computer Co., Ltd.) v. Jongchan Kim*, WIPO Case No. [D2003-0400](#): “There is no evidence that the Complainant authorized the Respondent to register the disputed domain name or to use the CASIO trademark, with or without immaterial additions or variants. These circumstances are sufficient to constitute a *prima facie* showing by the Complainant of absence of rights or legitimate interest in the disputed domain name on the part of the Respondent.” See also section 2.1 of the [WIPO Overview 3.0](#).

C. Registered and Used in Bad Faith

Complainant contends that Respondent's registration and use of the disputed domain name is in bad faith, which Respondent chose not to rebut.

Taking into consideration that the registration and use of Complainant's marks preceded the registration of the disputed domain name, and Complainant's media coverage and Internet presence through "www.capitalone.com" and "www.capitaloneshopping.com", this Panel is of the view that Respondent should have been aware of the existence of Complainant and its CAPITAL ONE SHOPPING mark at the time it obtained the registration of the disputed domain name, which is indicative of bad faith.

Further, Respondent's bad faith may be deduced from the following facts: (i) the disputed domain name incorporates Complainant's CAPITAL ONE SHOPPING mark coupled with just a minor typographical error variation, practice commonly known as typosquatting and which has been deemed as a strong indicative of bad faith under a number of UDRP cases;⁴ (ii) several prior UDRP decisions against Respondent for having registered as domain names marks of third parties, which is also strong evidence of bad faith;⁵ (iii) Respondent's registration of other domain names that, *prima facie*, infringe Complainant's CAPITAL ONE mark and marks of third parties;⁶ (iv) the risk of confusion of the disputed domain name with Complainant's CAPITAL ONE SHOPPING mark and domain name; (v) the use of the disputed domain name for a website with hyperlinks that may generate PPC revenue, which suggests Respondent's intent to unduly capitalize on the reputation and goodwill of Complainant's CAPITAL ONE SHOPPING mark;⁷ and (vi) Respondent's failure to appear at this proceeding, which may be indicative that Respondent lacks arguments and evidence to support its holding of the disputed domain name.

In sum, the overall evidence indicates that Respondent's choice of the disputed domain name was deliberate for its substantial similarity with, and with the likely intention to benefit from the reputation and goodwill of, Complainant's CAPITAL ONE SHOPPING mark, which denotes bad faith.⁸

In light of the above, this Panel finds that Complainant has satisfied paragraph 4(a)(iii) of the Policy.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, this Panel orders that the disputed domain name <capitaloneshoppings.com> be transferred to Complainant.

/Gerardo Saavedra/

Gerardo Saavedra

Sole Panelist

Date: January 24, 2023

⁴ See *Amazon.com, Inc. v. Steven Newman a/k/a Jill Wasserstein a/k/a Pluto Newman*, WIPO Case No. [D2006-0517](#): "the practice of typosquatting, in and of itself, constitutes bad faith registration." See also *Go Daddy Software, Inc. v. Daniel Hadani*, WIPO Case No. [D2002-0568](#): "Typosquatting is virtually *per se* registration and use in bad faith."

⁵ See section 3.1.2 of the [WIPO Overview 3.0](#).

⁶ See *Discover Financial Services v. Registration Private, Domains By Proxy, LLC / Carolina Rodrigues, Fundacion Comercio Electronico*, WIPO Case No. [D2020-3107](#): "The Panel agrees that the Respondent is clearly in the business of registering domain names that include the trademarks of others [...] This alone constitutes evidence of registration and use in bad faith."

⁷ See *G4S Limited v. Milen Radumilo*, WIPO Case No. [D2022-3910](#): "the use of a domain name that is deceptively similar to a trademark to obtain click-through-revenue is found to be bad faith use."

⁸ See *Jafra Cosmetics, S.A. de C.V. and Jafra Cosmetics Internacional, S.A. de C.V. v. ActiveVector*, WIPO Case No. [D2005-0250](#): "due to the intrinsically distinctive character of Complainants' trademarks, it is inconceivable that the contested domain name would have been registered and used if it were not for exploiting the fame and goodwill of Complainants' marks by diverting Internet traffic intended for Complainant."