

ADMINISTRATIVE PANEL DECISION

Discover Financial Services v. SelvaRaj Rajamani
Case No. D2024-2147

1. The Parties

The Complainant is Discover Financial Services, United States of America, represented by Elster & McGrady LLC, United States of America.

The Respondent is SelvaRaj Rajamani, India.

2. The Domain Name and Registrar

The disputed domain name <applydiscoveritcard.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 24, 2024. On May 27, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On May 27, 2024, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on May 28, 2024 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 amended Complaint on May 30, 2024.

The Center verified that the Complaint [together with the amendment to the Complaint/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 the Respondent of the Complaint, and the proceedings commenced on June 3, 2024. In accordance with the Rules, paragraph 5, the due date for Response was July 21, 2024. The Respondent sent informal email communications to the Center on June 9, 12 and July 18, 2024. The proceeding was suspended from June 17, 2024 until July 15, 2024.

The Center appointed Marina Perraki as the sole panelist in this matter on July 30, 2024. 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

The Complainant is a credit card issuer and electronic payment services company which offers the DISCOVER IT Cash Back Credit Card, as well as other credit card options. Per Complaint, the Complainant's network consists of millions of merchants and cash access locations, while the Complainant has thousands of employees. The Complainant operates its website at "www.discover.com". The Complainant also owns and operates the domain name <discoverit.com>, which directs to its home page. The Complainant owns numerous trademark registrations for DISCOVER and DISCOVER IT, including the United States trademark registration No. 4,280,808, DISCOVER IT (word), registered on January 22, 2013, for services in international class 36.

The disputed domain name was registered on August 24, 2023 and at the time of filing of the Complaint it directed to a website (the Website) with an article about "Applydiscoverit.com invitation code | applydiscoverit.com 4 word code" which featured pictures of Complainant's cards and information about a "Discover it" card and "code" and how to issue them entering personal details, and then redirected to a page seeking the user to "Click 'allow' if you are not a robot. Furthermore, MX records have been configured on the disputed domain name. Currently, it leads to an inactive website.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

B. Respondent

The Respondent submitted some informal emails. On June 9, 2024 he indicated "the reason I created this site is just to promote and use it. I have fully documented how to use the credit card and benefits, how to check balance and how to contact customer service on this website. I don't know how the law actually is. If you have any problem or any other problem with my website I will delete this website completely. I am very sorry to trouble you. Waiting for your reply."

On June 12, 2024 he said "I am going to delete the server side on the website. Check out the attachment file..." and on July 18, 2024 "Sorry for the late reply.. the domain owner passed away last month hence the late reply. He died in a road accident."

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which the Complainant must satisfy with respect to the disputed domain name:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the 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 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.

The 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 entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms, here, "apply" and "card", 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 disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain ("gTLD") ".com" is disregarded, as gTLDs typically do not form part of the comparison on the grounds that they are required for technical reasons ([WIPO Overview 3.0](#), section 1.11.1).

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 the 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 the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise. On the contrary, the disputed domain name led to the Website which included an article about "Applydiscoverit.com invitation code | applydiscoverit.com 4 word code" which featured pictures of the Complainant's cards and information about a "Discover it" card and "code" and how to issue them entering personal details, and then redirected to a page seeking the user to "Click 'allow' if you are not a robot". Furthermore, MX records have been configured on the disputed domain name.

Panels have held that the use of a domain name for illegal activity, here, claimed impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent. [WIPO Overview 3.0](#), section 2.13.1.

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.

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent's registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

The Panel concludes that the Respondent has registered and used the disputed domain name in bad faith. Because the DISCOVER IT mark had been widely used for purposes of the Policy and registered at the time of the disputed domain name registration by the Respondent, the Panel finds it more likely than not that the Respondent had the Complainant's mark in mind when registering this disputed domain name (*Tudor Games, Inc. v. Domain Hostmaster, Customer ID No. 09382953107339 dba Whois Privacy Services Pty Ltd / Domain Administrator, Vertical Axis Inc.*, WIPO Case No. [D2014-1754](#)).

Furthermore, the disputed domain name incorporates in its entirety the Complainant's mark with the addition of the terms "apply" and "card" which are descriptive of the Complainant's field of business. All the above show knowledge and purposeful targeting of the Complainant and its brand.

As regards use, the disputed domain name was used to host the Website with an article about "Applydiscoverit.com invitation code | applydiscoverit.com 4 word code" featuring photos of the Complainant's cards and information about a "Discovery Card" and "code", namely a website with content targeting the Complainant, while currently it leads to an inactive website.

Panels have held that the use of a domain name for illegal activity here, claimed impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. The Panel notes the composition of the disputed domain name, incorporating fully the trademark of the Complainant DISCOVER IT plus the word "apply" and "card", which describe the Complainant's field of business, and the Website content where the disputed domain name resolved, while MX records have been configured. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

The Panel finds that the 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 disputed domain name <applydiscoveritcard.com> be transferred to the Complainant.

/Marina Perraki/

Marina Perraki

Sole Panelist

Date: August 13, 2024