

ADMINISTRATIVE PANEL DECISION

Discover Financial Services v. Andrew Golding **Case No. DIO2024-0043**

1. The Parties

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

The Respondent is Andrew Golding, Canada, self-represented.

2. The Domain Name and Registrar

The disputed domain name <discovercapital.io> 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 December 30, 2024. On January 2, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 2, 2025, 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 January 6, 2025, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint.

On January 6, 7 and 9, 2025, the Respondent sent email communications to the Center. On January 9, 2025, the Complainant submitted the request for suspension to the Center. The Center confirmed on January 10, 2025, that the proceeding was suspended till February 9, 2025. The Respondent sent email communications on January 10 and 30, 2025. On February 10, 2025, the Complainant submitted the request to reinstitute the proceeding, the Center confirmed that the proceeding was reinstituted on February 11, 2025. The Complainant filed the first amended Complaint on February 13, 2025. The Respondent sent an email communication on February 11, 2025, and then the Responses were filed respectively on February 12, 13 and 17, 2025. The Complainant filed the second amended Complaint on February 17, 2025.

The Center verified that the Complaint together with the first and the second amended Complaints satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the "Policy"), the Rules for .IO Domain Name Dispute Resolution Policy (the "Rules"), and the WIPO Supplemental Rules for .IO 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 February 17, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 9, 2025. The Response sent an email communication on February 17, 2025.

The Center appointed John Swinson as the sole panelist in this matter on March 13, 2025. 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 financial services company that offers the Discover Credit Card, including credit cards for business, as well as numerous other financial services options such as savings accounts, personal loans, and home loans through its Discover Bank subsidiary. The Discover Credit Card is accepted in Canada and may be used at some Canadian banks.

The Complainant operates its website at <discover.com>.

The Complainant has a portfolio of trademark registrations for DISCOVER including:

- U.S. Reg. No. 1,479,946, registered on March 8, 1988; and
- Canada Reg. No. TMA844881, registered February 27, 2013.

The disputed domain name was registered on July 6, 2024.

The Respondent is reportedly an individual in Canada. The Respondent claims that he owns and is the president of an enterprise named “9462-0663 Québec inc. doing business as: Discover Capital” As set out in Québec government records, this enterprise has functions of “Consulting + marketing.”

The Respondent’s LinkedIn page states that the Respondent founded “Discover Capital” in June 2024. This LinkedIn profile has a link titled “Business Loans and Consulting” that links to the website at the disputed domain name.

The website at the disputed domain name is titled “Discover Capital” and includes a subheading “Financing Made Simple, Secure funding in as little as 48 hours”. Meta-tags for this website include “Discover Capital: Small Business Loans Made Simple”.

At the time of the Decision, the website at the disputed domain name lists “our solutions” as including term financing, business debt consolidation, equipment financing and business lines of credit. Little information is provided about such solutions. The website includes an “apply now” form that requires input of name, telephone, email, monthly revenue and target loan amount. The website also includes another form that requires much more detailed information including data of birth, business name and detailed information about the business. This second form is displayed when a user selects an “apply now” button at the top of the website or selects a “get in touch” button. The website has six blog posts that are all dated after the filing of the Complaint. There are also links to a Facebook and an Instagram account.

The website at the disputed domain name does not identify who operates the website. There is no “about us” section, no email address, no terms and conditions, no privacy policy and no copyright notice. There is no reference to the Respondent or to “9462-0663 Québec inc.” or to anyone else on the website at the disputed domain name.

5. Parties' Contentions

A. Complainant

In summary, the Complainant makes the following submissions:

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

The disputed domain name is confusingly similar to the Complainant's DISCOVER mark because it consists of Complainant's famous DISCOVER mark in the disputed domain name. The disputed domain name adds the financial services industry-specific generic term "capital," and the country-code Top-Level Domain ".io" to the DISCOVER mark. The addition of the element "capital" does not create a distinct meaning.

"Discover" is not a generic term in the finance industry, as evidenced by the Complainant's registration of the DISCOVER mark globally, including Canada.

The Respondent lacks rights or legitimate interests in the disputed domain name and is not making a bona fide offering of goods or services or legitimate noncommercial or fair use of the disputed domain name.

The Respondent uses or is associated with various names, such as Domains by Proxy, Andrew Golding, Andrew Golding Richard, and 9462-0663 Quebec inc. None are "Discover Capital." Therefore, the Respondent has never been commonly known by DISCOVER nor any variations thereof and has never lawfully used any trademark or service mark similar to the disputed domain name by which it may have come to be known.

Even if the Respondent had produced a document evidencing a d/b/a of "Discover Capital," which he has not and has merely claimed that he might in the future, the adoption of the famous DISCOVER mark to sell identical services still would not arise to a right or legitimate interest in the disputed domain name.

The Respondent has never operated any bona fide or legitimate business under the disputed domain name.

The Respondent is using the disputed domain name to direct consumers to a website purportedly offering competing financial services and collecting sensitive personal information from website visitors without the benefit of a privacy policy or terms of service. Infringing uses or uses in what may well be phishing or fraud schemes are not rights or legitimate interests.

The Respondent has associated MX (email) records with the disputed domain name, suggesting that the Respondent's real intention appears to be a phishing and fraud attempt through harvesting the personal information of confused consumers.

Even if the Respondent provides business loan solutions in Canada, such use does not entail a bona fide offering of goods or services because the Respondent is using the disputed domain name incorporating the Complainant's registered trademark to offer products in the same field.

The Respondent refers to a company called 9462-0663 Quebec inc. (Quebec Business Number 1177433639) to show that he has a legitimate business. However, nowhere in this business filing is it indicated that they are doing business as Discover Capital. Further, 9462-0663 Quebec inc. is registered under consulting and marketing as its economic activity.

The Respondent is using the disputed domain name to capitalize on Internet users' efforts to find the Complainant's website by using the DISCOVER mark in the disputed domain name. Such efforts to attract Complainant's customers and profit from their confusion constitutes bad faith registration and use of the contested domain name under Policy 4(b)(iv).

Use of the disputed domain name for what appears to be a phishing website is representative of clear-cut bad faith registration and use. Even if the disputed domain name is not a phishing site, and the Respondent is simply using the Complainant's mark to sell competing financial services.

B. Respondent

In summary, the Respondent makes the following submissions:

The Respondent contends that the Complainant has not satisfied all three of the elements required under the Policy for a transfer of the disputed domain name.

The Respondent is not impersonating the Complainant. The Respondent does not offer credit cards or electronic payment services. The Complainant and the Respondent do not operate in the same country.

The Respondent helps business "discover capital" (e.g., find money) so that they can grow.

"Discover" is a generic, descriptive word commonly used across various industries, including finance, education, and travel. The disputed domain name is not the same as "Discover" or "Discover.com". The addition of "capital" changes the meaning of the disputed domain name significantly, making it clear that the focus is business financing, not consumer banking or credit cards. The term is widely used, and the Complainant does not have a monopoly on the word.

The Respondent is an active business entity operating under the name Discover Capital, providing business loan solutions in Canada. The Respondent is not a cybersquatter and has never attempted to sell the disputed domain name to the Complainant or any competitor. The business has a legitimate, independent purpose and does not seek to exploit the Complainant's brand or confuse customers. The disputed domain name was not registered with bad faith intent—it is being actively used for a business in a different sector and country.

The Respondent registered the disputed domain name in good faith, intending to use it solely for a Canadian business loan marketplace. The Respondent

The website at the disputed domain name is clearly distinct from the Complainant's branding, logo, services, and market presence.

The Respondent's company is registered and has been registered since March 2022. The Canadian government knows the Respondent as 9462-0663 QUEBEC INC doing business as (dba): Discover Capital, which can be proven if requested. The Respondent can also provide tax returns proving this if requested. The Respondent has two employees. The Respondent can provide agreements between the Respondent's company and hundreds of clients. The Respondent pulls his fees from customer bank accounts as "Discover Capital" so this is a legitimate business.

In Canada, nobody knows what Discover card services are.

The Complainant claims that the Respondent is hiding his identity but if you Google "discover capital" you will see the Respondent's website and LinkedIn profile. The Response states: "We are simply helping local business owners 'discover capital' or find money via private and public institutions. We even lend our own money to businesses."

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

- (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 or is being used in bad faith.

The onus of proving these elements is on the Complainant.

An asserting party needs to establish that it is more likely than not that the claimed fact is true. An asserting party cannot meet its burden by simply making conclusory statements unsupported by evidence. To allow a party to merely make factual claims without any supporting evidence would essentially eviscerate the requirements of the Policy as both complainants and respondents could simply claim anything without any proof. For this reason, UDRP panels have generally dismissed factual allegations that are not supported by any bona fide documentary or other credible evidence. *Snowflake, Inc. v. Ezra Silverman*, WIPO Case No. [DIO2020-0007](#); *Captain Fin Co. LLC v. Private Registration, NameBrightPrivacy.com / Adam Grunberg*, WIPO Case No. [D2021-3279](#).

It appears to the Panel that part of the Response was written with the assistance of an AI tool – on the one hand, this would not necessarily matter insofar as the outcome is concerned as it is the content of the submission that matters; on the other hand, it may invite additional scrutiny as to substantive content – and to the extent it may not squarely address the questions being posed or refers to prior cases that in fact do not exist. As stated in *Instagram, LLC v. Chelsea Rocha, Alyssa Wiggins*, WIPO Case No. [D2025-0176](#):

The Respondent cited a prior case that the Panel could not find. It appears that the Respondent's citation is a "hallucination" probably produced because of using Artificial Intelligence tools. The fact that the Respondent does not appear to have verified the accuracy of such citation also casts doubt on the veracity of other statements in the Response.

In any event, the Panel has taken care to consider whether the contentions in the Response, regardless of their provenance, have merit. *Bureau Veritas v. Kavita Das, Integrated Certification & Inspection Pvt. Ltd.*, WIPO Case No. [D2024-4224](#).

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 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.

The Respondent asserts that "discover" is a "generic, descriptive word commonly used across various industries". The Respondent provides little evidence of this, and the evidence that he does provide is evidence of the Complainant's own trademark use. Moreover, the Complainant has trademark registrations for DISCOVER, including in Canada where the Respondent is located, which is evidence that DISCOVER is plainly not generic or descriptive for the services covered by the Complainant's trademark registrations.

Although the addition of other terms (here, "capital") may bear on assessment of the second and third elements, the Panel finds the addition of such term 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 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 proceedings under the Policy 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 burden of production shifts to the Respondent to come forward with relevant evidence demonstrating 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.

Other than using the heading and title “DISCOVER CAPITAL” on the website at the disputed domain name and using “Discover Capital” on the Respondent’s LinkedIn page, there is no evidence before the Panel of use of “DISCOVER CAPITAL” by the Respondent. The use of “DISCOVER CAPITAL” as the heading and title of the website at the disputed domain name appears to the Panel not to be bona fide use of use by the Respondent but rather is bad faith use as discussed below in relation to the third element of the Policy. Such use by the Respondent does not confer rights or legitimate interests in the disputed domain name on the Respondent.

The Respondent provided no evidence of any other use. Asserting that there is other use, but not providing evidence to the Panel is insufficient to rebut the Complainant’s case. Assertions are not evidence. Accordingly, the Panel is unable to conclude that the Respondent has been commonly known by the disputed domain name or a name corresponding to the disputed domain name.

The Panel finds the second element of the Policy has been established.

C. Registered or Used in Bad Faith

Paragraph 4(a)(iii) of the Policy provides that the Complainant must establish that the Respondent registered or used the disputed domain name in bad faith.

Generally speaking, a finding that a domain name has been registered or is being used in bad faith requires an inference to be drawn that the respondent in question has registered or is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant.

The Respondent did not assert that he was unaware of the Complainant or the Complainant’s DISCOVER mark when he registered the disputed domain name.

The Complainant and the Respondent are both providing financial services, although directed to different segments of the market. The Panel concludes that use of “discover” in the disputed domain name by the Respondent was to attract visitors to the website at the disputed domain name who were searching for the Complainant. The Panel considers that “discover” is not a common term to use in relation to financial services.

The Complainant asserts that the Respondent’s website at the disputed domain name is a phishing or fraudulent website. The Panel can conclude that website is not typical of a legitimate financial services website. For example, the information about the Respondent’s products and services is sparse, there is no entity identified as providing these products and services, there are no address or contact details, and no privacy policy or terms of use. The website, however, has forms to collect significant information from potential customers. These facts strongly suggest that the website at the disputed domain name is not the website for a legitimate business and that the disputed domain name is being used in bad faith.

Accordingly, the Panel concludes that the Respondent registered the disputed domain name to intentionally attempted to attract, for commercial gain, Internet users to the Respondent’s website at the disputed domain name, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website.

For completeness, the Panel does not find that the Respondent’s website attempts to impersonate the Complainant. However, by not providing a name and contact details, some consumers may be led to wonder if this website is operated by the Complainant.

In the circumstances, the Complainant has made out the requirements of paragraph 4(a)(iii) of 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 <discovercapital.io> be transferred to the Complainant.

/John Swinson/

John Swinson

Sole Panelist

Date: March 27, 2025