

ADMINISTRATIVE PANEL DECISION

Michael Sinatra, eMoneyUSA v. Jessie Mohr, Simonis, Schimmel and Rempel and Sons

Case No. D2024-4637

1. The Parties

The Complainant is Michael Sinatra, eMoneyUSA, United States of America (“United States”), represented by IntegriShield, United States.

The Respondent is Jessie Mohr, Simonis, Schimmel and Rempel and Sons, United States.

2. The Domain Name and Registrar

The disputed domain name <emoneyusa.com> is registered with Porkbun LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 11, 2024. On November 12, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 13, 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 (Whois Privacy, Private by Design, LLC) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 13, 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 amended Complaints on November 18 and 24, 2024.

The Center verified that the Complaint together with the amended Complaints 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 November 25, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 15, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 17, 2024.

The Center appointed W. Scott Blackmer as the sole panelist in this matter on December 19, 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 Complaint was filed in the name of the Complainant's CEO Michael Sinatra and "eMoneyUSA", with little additional information about the Complainant. The Complainant operates an online installment loan service through a website (the "Complainant's website") at "www.emoneyusa.com", a domain name that was registered in May 2013. The Complainant's website identifies the website operator more fully as eMoneyUSA Holdings, LLC, a limited liability company based in Leawood, Kansas, United States. The website includes information about relevant state regulatory authorities and links to the website of the Online Lenders Alliance, of which the Complainant is a member. The Panel notes that the online database of the Kansas Secretary of State shows that eMoneyUSA Holdings, LLC is active and was formed in June 2013, consistent with the Complainant's statement that it has been doing business since 2013. Accordingly, the Panel refers hereafter to eMoneyUSA Holdings, LLC as the "Complainant".

The Complainant does not claim a relevant trademark registration. The Panel notes that the online database of the United States Patent and Trademark Office ("USPTO") shows that the Complainant applied on November 20, 2013, to register EMONEY USA as a standard character mark (Serial Number 86124727). This application was abandoned on September 9, 2014, following a USPTO office action refusing the application on the grounds of "likelihood of confusion" with the registered marks EMONEY and EMONEY ADVISOR and for being "primarily geographically descriptive".

The Complainant refers to its website operation since 2013, "[t]herefore, establishing a presence and a brand". The Panel notes that the Internet Archive's Wayback Machine has archived screenshots of the Complainant's website since June 2014, showing that the Complainant has been offering cash loans on its website for at least a decade using a logo featuring the term "eMoney" or "Emoney" in stylized letters, above or below the geographic abbreviation "USA" in smaller letters.

The Registrar reports that the disputed domain name was created on June 21, 2024, and is registered to the Respondent Jessie Mohr of Simonis, Schimmel and Rempel and Sons, showing a postal address in Wellington, Alabama, United States, and a Gmail contact email address. The Panel notes that no such company or companies appear in the online database of the Alabama Secretary of State as domestic or foreign entities registered to do business in Alabama.

The disputed domain name resolves to a website (the "Respondent's website") headed "eMoneyUSA" (like the Complainant's name and not like the misspelled version in the disputed domain name), with a tagline in dubious English: "Get loan that works for you". The Respondent's website does not identify the website operator. Instead, it solicits personal and financial information from website visitors that ostensibly will be submitted to unnamed potential lenders.

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.

Notably, the Complainant contends that the disputed domain name is "confusingly similar to the Complainant's business site 'emoneyusa.com' and evidence demonstrating that the named Respondent is promoting an eCommerce site with the same services", "copying the business name of the Complainant".

The Complainant argues that the Respondent online business using the disputed domain name is not legitimate, because it is based on the Complainant's established domain name and website and "poses confusion to potential consumers". "The Respondent (as an online business) has been commonly known by the domain name listed, even though the Respondent has not established trademark or service mark rights." The Complainant argues, finally, that the Respondent has created confusion to disrupt the Complainant's business and misdirect Internet users for commercial gain.

B. Respondent

The Respondent did not reply to the 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.

The Panel finds the Complainant has established unregistered trademark or service mark rights for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.3. While the Complainant's USPTO application to register EMONEYUSA as a standard character mark in 2014 was abandoned, the Panel finds substantial evidence that the Complainant has continued to use logos prominently featuring those terms for over a decade since, suggesting acquired distinctiveness and common law rights. Moreover, "[t]he fact that a respondent is shown to have been targeting the complainant's mark (e.g., based on the manner in which the related website is used) may support the complainant's assertion that its mark has achieved significance as a source identifier". [WIPO Overview 3.0](#), section 1.3. That is the case here, where the disputed domain name is clearly an instance of typosquatting and the Respondent's website features the correct version of the Complainant's mark in advertising a similar online lending service.

The Panel finds the mark is recognizable 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](#), sections 1.7 and 1.9.

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. There is no evidence that the Respondent is known by a corresponding name or has relevant trademark rights. While the Respondent has been using the disputed domain name to advertise a service of collecting applications online to pass on to potential lenders, it is not known whether this is a legitimate business operation or merely a phishing and fraud scheme, and the Respondent has not come forward with relevant information. Moreover, it could not be considered a use in connection with a bona fide commercial offering if it targeted the Complainant's mark, as discussed further below in connection with the element of bad faith.

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 the Respondent has not replied to the Complaint and has evidently not furnished accurate registration information. The Respondent's website does not identify the website operator and uses the correct name of the Complainant and the textual elements of the Complainant's mark, while the disputed domain name transposes two letters of the mark in an instance of classic typosquatting. The Respondent's website offers quick, online processing of small instalment loan applications, as does the Complainant's. These facts all point to an effort to create confusion among consumers or potential customers of the Complainant for commercial gain, possibly to disrupt the business of a competitor, consistent with the examples of bad faith cited in the Policy, paragraphs 4(b)(iii) and (iv).

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.

Panels have held that the use of a domain name for illegitimate or illegal activity, such as phishing or fraud, also constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name for a website soliciting personal and financial information for online lending under the Complainant's name, while obscuring the actual identity of the website operator, is suggestive of fraud and deception and 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 <emoneyusa.com> be transferred to the Complainant.

/W. Scott Blackmer/

W. Scott Blackmer

Sole Panelist

Date: January 2, 2025