

ADMINISTRATIVE PANEL DECISION

Flagship Credit Acceptance LLC and Flagship Credit Corporation v. Kuli J, BMA LLP

Case No. DCO2024-0032

1. The Parties

The Complainants are Flagship Credit Acceptance LLC and Flagship Credit Corporation, United States of America ("United States"), represented by Cozen O'Connor, United States.

The Respondent is Kuli J, BMA LLP, India.

2. The Domain Name and Registrar

The disputed domain name <flagshipcredit.co> is registered with Dynadot Inc (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on April 22, 2024. On April 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 24, 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 (Unknown Registrant) and contact information in the Complaint. The Center sent an email communication to the Complainants on April 26, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on April 30, 2024.

The Center verified that the Complaint together with the 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 sent the notification to the Respondent of the Complaint, and the proceedings commenced on May 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was May 21, 2024. The Respondent did not submit any response. Accordingly, the Center sent the notification of the Respondent's default on May 22, 2024.

The Center appointed Petra Pecar as the sole panelist in this matter on May 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 Complainants, Flagship Credit Acceptance LLC (the “First Complainant”) and Flagship Credit Corporation (the “Second Complainant”), are specialized in providing financing services across various credit levels. Established in 1999, the Complainants operate within the automotive financing industry and collaborate with over 9,000 automotive dealerships nationwide. The Complainants offer direct and indirect lending services.

The Complainants own service mark registration bearing FLAGSHIP CREDIT, among others the following marks:

- The First Complainant, United States Reg. No. 4086914 for FLAGSHIP CREDIT ACCEPTANCE, registered on January 17, 2012, in International Class 36. This mark has been used in connection with the aforementioned services since at least as early as October 2010; and
- The Second Complainant, United States Reg. No. 3359613 for FLAGSHIP CREDIT CORPORATION, registered on December 25, 2007, in International Class 36. This mark has been used in connection with the aforementioned services since at least as early as July 1, 1999.

The disputed domain name was registered on July 5, 2023, and at the time of the Complaint filing it was a parked webpage offered for sale for USD 2,499.

The Respondent is located in India.

5. Parties’ Contentions

A. Complainants

The Complainants contend that they have satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainants contend that the Respondent registered the disputed domain name on July 5, 2023, fully incorporating the FLAGSHIP CREDIT as dominant portion of the marks and likely causing consumer confusion. The disputed domain name lacks distinguishing elements, making it seem affiliated with the Complainants. The use of country code Top-Level Domain “.co” does not differentiate it from the Complainants’ mark, as prior panels found that the TLD does not impact similarity. The Respondent appears to trade on the Complainants’ goodwill, misleading consumers and potentially enabling fraudulent activities.

The Complainants assert that the Respondent has no legitimate interests in the disputed domain name. The Respondent is not affiliated with the Complainants, nor is there evidence that the Respondent registered the disputed domain name for legitimate purposes or bona fide offerings. The Respondent registered the disputed domain name anonymously, likely to evade consequences, which has been viewed negatively by previous panels. The Respondent is not commonly known as “FLAGSHIP CREDIT”, and there is no evidence connecting them to it. The website is at the time of the Complaint filing inaccessible, with only an offer to sell the disputed domain name, showing no legitimate use of the Complainants’ marks.

The Complainants argue that the Respondent’s registration and use of the disputed domain name were in bad faith and infringe on the Complainants’ prior rights. The Respondent has tried to exploit the FLAGSHIP CREDIT marks and reputation for commercial gain. The disputed domain name was registered long after the Complainants’ marks and is offered for sale at USD 2,499. The Respondent used privacy services to

hide its identity. These actions indicate an intention to profit from the Complainants' goodwill and to deceive consumers into believing there is an affiliation with the Complainants.

B. Respondent

The Respondent did not reply to the Complainants' contentions.

6. Discussion and Findings

6.1. Procedural Issues

Consolidation of Multiple Complainants

Pursuant to WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)), section 4.11.1, the consolidation of multiple complainants filing a joint complaint against one or more respondents is subject to the discretion of the appointed panel. In assessing whether a complaint filed by multiple complainants may be brought against one or more respondents, the appointed panel should consider whether (i) the complainants have a specific common grievance against the respondent, or the respondent has engaged in common conduct that has affected the complainants in a similar fashion, and (ii) it would be equitable and procedurally efficient to permit the consolidation. The Panel finds that the disputed domain name targets marks, FLAGSHIP CREDIT ACCEPTANCE owned by the First Complainant and FLAGSHIP CREDIT CORPORATION owned by the Second Complainant. The registration and use of the disputed domain name affects both Complainants, and they therefore have a common grievance against the Respondent. Therefore, the Panel considers that it is fair and equitable and procedurally efficient under the circumstances of the case to permit the consolidation, as the Complainants have a specific common grievance against the Respondent, since their marks are affected by the disputed domain name. Consequently, the Panel allows the Complainants to proceed jointly with their Complaint.

6.2. Findings

As the Respondent did not file a Response to the Complainants' contentions, the Panel shall consider the issues present in the case based on the statements and documents submitted by the Complainants.

"A Panel shall 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", as indicated in paragraph 15(a) of the Rules.

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

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

6.3. Substantive Issues

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 Complainants' trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainants have shown rights in respect of a service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The Panel finds the dominant element of the marks FLAGSHIP CREDIT 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](#), section 1.7.

Finally, it is a well-accepted practice by UDRP panels that a TLD (such as the ccTLD “.co” in this case), is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark (see section 1.11.1 of the [WIPO Overview 3.0](#)). Accordingly, the Panel determines that the disputed domain name is confusingly similar to the Complainants’ mark.

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.

According to the Complainants, there is no association or connection between the Respondent and the Complainants. The Complainants have not granted the Respondent any license or authorization to use or register any domain name incorporating the Complainants’ marks. Furthermore, the Respondent has not responded to the Complaint, failing to present any information or factors that could justify prior rights or legitimate interests in the disputed domain name. In the circumstances of this case, the Respondent’s conduct in offering the disputed domain name for sale at a price of USD 2,499, which likely exceeds the domain name registration and maintenance costs, indicates that the Respondent has not engaged in any legitimate or genuine use of the disputed domain name for non-commercial or bona fide activities.

Having reviewed the available record, the Panel finds the Complainants have established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainants’ 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.

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 finds that the Respondent registered and used the disputed domain name in bad faith. The Complainants, established in 1999, had been using the service mark for 16 years prior to the registration of the disputed domain name. The Respondent has not provided any response to the Complaint

and has consequently failed to offer any justification for the registration and use of the disputed domain name. It is implausible that the Respondent was unaware of the Complainants when registering the disputed domain name, as a quick Internet search would have revealed the use of the Complainants' mark.

At the time of the Complaint filing, the disputed domain name resolved to a website offering the disputed domain name for sale at a price of USD 2,499, likely exceeding the domain name registration and maintenance costs. This, and the registration of the disputed domain name incorporating the dominant part of the Complainants FLAGSHIP CREDIT ACCEPTANCE and FLAGSHIP CREDIT CORPORATION trademarks in its entirety suggests that the Respondent registered the disputed domain name primarily for the purpose of selling the disputed domain name to the Complainants who are the owner of the trademarks or service marks, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name, thereby constituting bad faith, paragraph 4(b)(i) 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 <flagshipcredit.co> be transferred to the Complainants.

/Petra Pecar/

Petra Pecar

Sole Panelist

Date: June 13, 2024