



## DECISION

Reliable Credit Association, Inc. v. Connie Headley

Claim Number: FA2103001935932

### PARTIES

Complainant is **Reliable Credit Association, Inc.** (“Complainant”), represented by **Kevin M. Hayes**, Oregon, USA. Respondent is **Connie Headley** (“Respondent”), California, USA.

### REGISTRAR AND DISPUTED DOMAIN NAME

The domain name at issue is **<reliablecreditloan.com>**, registered with **NameCheap, Inc.**

### PANEL

The undersigned certify that they have each acted independently and impartially and to the best of their knowledge have no known conflict in serving as Panelists in this proceeding.

David L. Kreider as the Chair of the three-member Panel, along with Scott R. Austin and Terry F. Peppard, as Panelists.

### PROCEDURAL HISTORY

Complainant submitted a Complaint to the FORUM electronically on March 9, 2021; the FORUM received payment on March 9, 2021.

On March 9, 2021, NameCheap, Inc. confirmed by e-mail to the FORUM that the **<reliablecreditloan.com>** domain name (the “Disputed Domain Name”) is registered with NameCheap, Inc. and that Respondent is the current registrant of the name. NameCheap, Inc. has verified that the Respondent is bound by the

NameCheap, Inc. registration agreement and has thereby agreed to resolve domain disputes brought by third parties in accordance with ICANN's Uniform Domain Name Dispute Resolution Policy (the "Policy").

On March 11, 2021, the FORUM served the Complaint and all Annexes, including a Written Notice of the Complaint, setting a deadline of March 31, 2021 by which the Respondent could file a Response to the Complaint, via e-mail to all entities and persons listed on the Respondent's registration as technical, administrative, and billing contacts, and to postmaster@reliablecreditloan.com. Also on March 11, 2021, the Written Notice of the Complaint, notifying the Respondent of the e-mail addresses served and the deadline for a Response, was transmitted to the Respondent via post and fax, to all entities and persons listed on the Respondent's registration as technical, administrative and billing contacts.

Having received no response from the Respondent, the FORUM transmitted to the parties a Notification of Respondent Default.

On April 6, 2021, pursuant to the Complainant's request to have the dispute decided by a three-member Panel, the FORUM appointed David L. Kreider, Chartered Arbitrator (UK), as Panelist; Scott R. Austin as Panelist; and Terry F. Peppard as Panelist.

Having reviewed the communications records, the Administrative Panel (the "Panel") finds that the FORUM has discharged its responsibility under Paragraph 2(a) of the Rules for Uniform Domain Name Dispute Resolution Policy (the "Rules") "to employ reasonably available means calculated to achieve actual notice to the Respondent" through submission of Electronic and Written Notices, as defined in Rule 1 and Rule 2. Therefore, the Panel may issue its decision based on the documents submitted and in accordance with the ICANN Policy, ICANN Rules, the FORUM's Supplemental Rules and any rules and principles of

law that the Panel deems applicable, without the benefit of any response from the Respondent.

## RELIEF SOUGHT

The Complainant requests that the Disputed Domain Name be transferred from the Respondent to the Complainant.

## PARTIES' CONTENTIONS

### A. Complainant

The Complainant asserts rights in the RELIABLE CREDIT mark (the "Mark") pursuant to U.S. Trademark Registration No. 3,724,934, registered December 15, 2009, as well as common law rights based on usage "for at least nearly (*sic*) 50 years" in connection with its financial services and money lending business.

The Complainant's Mark and the Disputed Domain Name <reliablecreditloan.com> differ only by the addition of a related and descriptive word, "loan," to Complainant's Mark. *Google LLC v. Floan Delveir*, FA2012001925079 (FORUM Jan. 1, 2021) ("The addition of a generic term to a mark does not negate any confusing similarity between a disputed domain name and mark under Policy ¶ 4(a)(i).").

The Complainant alleges that the Respondent is using the Complainant's Mark without permission and is using the confusingly similar Disputed Domain Name in connection with a website that purports to be (but is not) for financial services. The Respondent's "use" is not use in connection with a *bona fide* offering of goods or services pursuant to Policy ¶ 4(c)(i) or legitimate noncommercial or fair use pursuant to Policy ¶ 4(c)(iii). *See, e.g., Amazon.com, Inc. v. Whois Privacy, Inc.*, FA536281 (FORUM Sept. 26, 2005). The Respondent is simply using the Disputed Domain Name to redirect Internet users seeking the Complainant to the Respondent's website. Moreover, one cannot infer a legitimate use when the

Respondent uses the Complainant's entire Mark in the Disputed Domain Name. *See eBay Inc. v. Hong*, D2000-1633 (WIPO Jan. 18, 2001).

Furthermore, the Complainant avers, the website to which the Disputed Domain Name resolves advertises the same services as the Complainant and will create a false impression of an online location either established by the Complainant or having an affiliation with the Complainant. *Amazon Technologies, Inc. v. Sidra Aziz* FA2012001925185 (FORUM Apr. 1, 2021).

The Complaint alleges:

"Confused people have also been receiving text messages directing them to go to the website corresponding to the disputed domain where they are prompted to provide their social security and phone numbers. Some of those people have contacted Complainant due to their confusion. This use of the domain name to scam consumers into providing personal information to an entity infringing upon Complainant's mark even further shows bad faith."

The Complaint concludes:

"The only plausible reason for Respondent's registration of the disputed domain name and obvious infringing use of the corresponding website was to intentionally attempt to attract Internet users to Respondent's website by creating a likelihood of confusion with Complainant's mark as to the source, sponsorship, affiliation, or endorsement of Respondent's website and services offered thereon. The registration for the disputed domain should therefore be ordered transferred to Complainant before further harm and confusion accrues."

B. Respondent

The Respondent failed to submit a Response in this administrative proceeding.

## FINDINGS

The Complainant claims rights in the RELIABLE CREDIT Mark through its registration of the Mark with the United States Patent and Trademark Office (“USPTO”) (*e.g.*, Reg. No. 3,724,934, registered December 15, 2009). The Tribunal takes note from the public record that the Complainant’s Mark remains in force by virtue of its renewal with the USPTO as of July 26, 2019.

The Respondent, Connie Headley, registered the Disputed Domain Name on July 14, 2020.

The Respondent failed to submit a Response timely, or at all, in these proceedings.

The Complainant’s official website at URL: <reliablecredit.com> explains that “Reliable Credit is a finance company that provides credit to a broad range of qualified consumers” through direct loans and purchase and retail installment contracts from approved dealers, and offers insurance products.

The Disputed Domain Name resolves to a website purporting to offer personal loan funding. The website invites public Internet users to enter their personal information, including employment data and banking information, which will be shared “with participating members of our network” to obtain “simple and secure funding in 4 easy steps”, which reflects the Respondent’s bad faith registration and use of the Disputed Domain Name in connection with an unlawful “phishing” scam.

## DISCUSSION

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

Paragraph 4(a) of the Policy requires that the Complainant prove each of the following three elements to obtain an order that a domain name should be cancelled or transferred:

- (1) the domain name registered by the Respondent is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (2) the Respondent has no rights or legitimate interests in respect of the domain name; and
- (3) the domain name has been registered and is being used in bad faith.

In view of the Respondent's failure to submit a response, the Panel shall decide this administrative proceeding on the basis of the Complainant's undisputed representations pursuant to paragraphs 5(f), 14(a) and 15(a) of the Rules and draw such inferences as it considers appropriate pursuant to paragraph 14(b) of the Rules. The Panel is entitled to accept all reasonable allegations set forth in a complaint; however, the Panel may deny relief where a complaint contains mere conclusory or unsubstantiated arguments. *See WIPO Jurisprudential Overview 3.0* at ¶ 4.3; *see also eGalaxy Multimedia Inc. v. ON HOLD By Owner Ready To Expire*, FA 157287 (FORUM June 26, 2003) ("Because Complainant did not produce clear evidence to support its subjective allegations [ . . . ] the Panel finds it appropriate to dismiss the Complaint").

### Identical and/or Confusingly Similar

The Complainant has adduced no meaningful evidence to support its claim to common law rights in the Mark. The Complainant has, however, established rights in the RELIABLE CREDIT Mark, which rights pre-date the registration of the Disputed Domain Name by more than a decade, by way of registration with the USPTO with effect from December 15, 2009.

The Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's RELIABLE CREDIT Mark, as the name incorporates the Mark in its entirety. The addition of the generic word "loan" does not alleviate the confusing similarity, and may amplify it, as the Complainant provides financial services, including but not limited to, making loans to its customers. *See, Research in Motion Limited v. One Star Global LLC*, D2009-0227 (WIPO April 9, 2009) ("The Panel accepts the Complainant's contention that the use of term 'unofficial' [in the disputed domain name <unofficialblackberrystore.com>] does not prevent the Domain Name from being confusingly similar to the Complainant's BLACKBERRY mark. It is necessary to recognize that the term (*recte*) confusing similarity is a low threshold test the purpose of which is effectively to assess whether a complainant has sufficient rights so as to give it standing to bring a complaint."); *see also, The Stanley Works v. McNeil & Associates*, FA400009471 (FORUM Aug. 31, 2002) ("Complainant has established that it has rights in the STANLEY, HUSKY, and PROTO trademarks through registration and continuous use. Respondent's <stanley-proto.com>; <stanley-husky.com>; <stanley-tools.com>; and <stanley-hardware.com> domain names are confusingly similar to Complainant's STANLEY, HUSKY, and PROTO marks because they either combine two of Complainant's trademarks together or combine Complainant's trademark STANLEY with generic terms.").

Complainant's RELIABLE CREDIT Mark is readily recognizable as incorporated in its entirety into the Disputed Domain Name and for that reason the Panel finds

the Disputed Domain Name confusingly similar to the RELIABLE CREDIT Mark in which the Complainant has rights.

The first element at paragraph 4(a)(i) of the Policy is satisfied.

### **Rights or Legitimate Interests**

The Complainant argues that the Respondent lacks rights and legitimate interests in the Disputed Domain Name, as the Respondent is not commonly known by the Disputed Domain Name and has not been authorized or licensed to use the Complainant's RELIABLE CREDIT Mark. The Registrar's verification email establishes, moreover, that the Respondent is not commonly known by the Disputed Domain Name under Policy ¶ 4(c)(ii). *See Tenza Trading Ltd. v. WhoisProtectService.net / PROTECTSERVICE, LTD.*, FA1506001624077 (FORUM July 31, 2015).

The Complainant having established *prima facie* that Respondent lacks rights and legitimate interests in the Disputed Domain Name under Policy ¶ 4(a)(ii), the burden then shifts to the Respondent to adduce evidence to show it does have rights or legitimate interests. *See Advanced International Marketing Corporation v. AA-1 Corp*, FA 780200 (FORUM Nov. 2, 2011) (finding that a complainant must offer some evidence to make its *prima facie* case and satisfy Policy ¶ 4(a)(ii)); *see also Neal & Massey Holdings Limited v. Gregory Ricks*, FA 1549327 (FORUM Apr. 12, 2014) ("Under Policy ¶ 4(a)(ii), Complainant must first make out a *prima facie* case showing that Respondent lacks rights and legitimate interests in respect of an at-issue domain name and then the burden, in effect, shifts to Respondent to come forward with evidence of its rights or legitimate interests").

Here, the Respondent has failed to submit a Response or to adduce evidence showing rights and legitimate interests in the Disputed Domain Name. When the burden shifts and the Respondent fails to respond, the Panel is entitled to



assume that the evidence would not have been favorable to the Respondent. *Mary-Lynn Mondich and American Vintage Wine Biscuits, Inc. v. Shane Brown , doing business as Big Daddy's Antiques*, D2000-0004 (WIPO February 16, 2000).

The Panel finds that the second element at paragraph 4(a)(ii) of the Policy is satisfied.

### **Registration and Use in Bad Faith**

The Complainant alleges that the Respondent's website advertises and purports to provide the same financial services as the Complainant. This allegation is supported by evidence in the form of screen captures from the Respondent's website. Using an infringing domain name to compete with Complainant displays bad faith disruption under Policy ¶ 4(b)(iii). *See LoanDepot.com, LLC v. Kaolee (Kay) Vang-Thao*, FA1762308 (FORUM Jan. 9, 2018) (Finding that Respondent's use of the disputed domain name to offer competing loan services disrupts Complainant's business under Policy ¶ 4(b)(iii)).

Additionally, the Complainant alleges that it has reports from public Internet users who have received text messages encouraging them to visit the Respondent's website and input personal information, including the individuals' social security numbers. Although the Complainant has adduced no examples of such text messages or records of such reports from members of the public to support its allegations, the Panel notes that screenshots of the Respondent's website show a web page inviting public Internet users to enter their personal information, including employment data and banking information, which will be shared "with participating members of our network" to obtain "simple and secure funding in 4 easy steps".

This evidence is consistent with the Complainant's allegations of actual confusion on the part of users of the public Internet. It further reflects, and the Panel finds, that the Respondent registered and is using the Disputed Domain Name in connection with an Internet "phishing" scam. *See, Capital One Financial Corporation and Capital One Bank v. Austin Howel*, FA0406000289304 (FORUM Aug. 11, 2004) (Finding, "Respondent registered the disputed domain name, <capitalonebank.biz>, March 23, 2004, and is using the domain name in connection with an Internet "phishing" scam, a practice that is intended to defraud consumers into revealing personal and proprietary information.").

Its registration and use of the infringing Disputed Domain Name and related website purporting to offer loan funding not only reflects the Respondent's nominal interest in commercial gain by competing for traffic for legitimate loan production, but the Respondent's unregulated spamming and phishing activities, as well. Her registration and use of the Disputed Domain Name in pursuit of an unlawful phishing scam proves the Respondent's bad faith. *See DaVita Inc. v. Shwan Leckie*, FA2012001923705 (FORUM Jan. 4, 2021) ("This mimicking by the Respondent of the Complainant shows that the Respondent was aware of the Complainant and its business, rights and services and constitutes passing off."). Citing, *Qatalyst Partners L.P. v. Devinmore*, FA 1393436 (FORUM July 13, 2011) (finding that using the disputed domain name as an e mail address to pass itself off as the complainant in a phishing scheme is evidence of bad faith registration and use).

Accordingly, the Panel finds that the Respondent registered and is using the disputed domain name in bad faith under paragraph 4(a)(iii) of the Policy.

## DECISION

Having established all three elements required under the ICANN Policy, the Panel concludes that relief shall be **GRANTED**.

Accordingly, it is Ordered that the <reliablecreditloan.com> domain name be **TRANSFERRED** from Respondent to Complainant.

A handwritten signature in black ink, appearing to read 'DK', is written over a horizontal line.

David L. Kreider, Esq.  
Panelist

David L. Kreider as the Chair,  
along with Scott R. Austin and Terry F. Peppard, Panelists.

Dated: April 12, 2021