# Decision for dispute CAC-UDRP-103402

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| Case number | CAC-UDRP-103402 |
| Time of filing | 2020-11-10 10:42:03 |
| Domain names | universityofphoenixdebtorgiveness.com |

## Case administrator

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| Organization | Iveta Špiclová (Czech Arbitration Court) (Case admin) |

## Complainant

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| Organization | The University of Phoenix, Inc. |

## Complainant representative

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| Organization | RODENBAUGH LAW |

## Respondent

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| Name | Mike Morcos |

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of the following trademarks registered in the United States:

- UNIVERSITY OF PHOENIX (Registration No. 1540927) which was registered on May 23, 1989;

- UNIVERSITY OF PHOENIX (logo) (Registration No. 2089210) which was registered on August 19, 1997;

- UNIVERSITY OF PHOENIX (logo) (Registration No. 3431022) which was registered on May 20, 2008; and

- UNIVERSITY OF PHOENIX (logo) (Registration No. 3988757) which was registered on July 9, 2010.

FACTUAL BACKGROUND

The Complainant, University of Phoenix, Inc., is a United States company that has pioneered higher education for the working learner. The Complainant offers quality academic programs, qualified faculty, and a comprehensive student experience that

comprise a respected institution of higher education. The Complainant has continually used the UNIVERSITY OF PHOENIX trademark in commerce since as early as 1980. Since that time, the Complainant has also extensively used in commerce the UNIVERSITY OF PHOENIX logo marks.

The disputed domain name, <universityofphoenixdebtorgiveness.com>, was registered on September 12, 2018 resolves to an active webpage which shows “University of Phoenix Debt Forgiveness” and “For Federal & Private Student Loans”. A contact number is also provided and a link which states “Verify Eligibility”. The background of the websites also features what appears to be a photograph of a monument-style sign that displays the Complainant’s UNIVERSITY OF PHOENIX logo mark.

PARTIES CONTENTIONS

COMPLAINANT:

The Complainant contends that the disputed domain name is confusingly similar to the UNIVERSITY OF PHOENIX mark on the basis that the disputed domain name wholly incorporates the Complainant’s trademark and the addition of a common generic term “debt” and an intentional misspelling of “forgiveness” by omitting the letter “f” in the disputed domain name, and generic top-level domain name suffix (“gTLD”) “.com” are insufficient to avoid the finding that the disputed domain name is confusingly similar to its UNIVERSITY OF PHOENIX mark.

The Complainant also argues that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Respondent is not commonly known by the disputed domain name and has not used the disputed domain name in connection with bona fide offering of goods or services.

The Complainant further asserts that the disputed domain name has been registered and is being used in bad faith as the Respondent should have known of the Complainant’s UNIVERSITY OF PHOENIX mark at the time of registration of the disputed domain name. The Complainant also asserts that the Respondent is attempting to attract, for commercial gain, Internet users to the Respondent’s website, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of the Respondent’s website or of a product or service on the Respondent’s website.

RESPONDENT:

The Respondent did not reply to the Complainant’s contentions.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

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A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires a complainant to show that a domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights.

A registered trademark provides a clear indication that the rights in the mark shown on the trademark certificate belong to its respective owner. The Complainant has provided evidence that it owns the trademark UNIVERSITY OF PHOENIX.

The differences between the disputed domain name <UNIVERSITYOFPHOENIXDEBTORGIVENESS.COM> and the Complainant's UNIVERSITY OF PHOENIX trademark are the addition of a common generic term "debt" and an intentional misspelling of "forgiveness" by omitting the letter "f" in the disputed domain name, and gTLD ".com".

It is established that the addition of a descriptive term would not prevent a finding of confusing similarity under the first element (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("WIPO Overview 3.0"), section 1.8).

It is also established that gTLD is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (WIPO Overview 3.0, section 1.11). The addition of a gTLD to a disputed domain name does not avoid confusing similarity as the use of a TLD is technically required to operate a domain name (see Accor v. Noldc Inc. WIPO Case No. D2005-0016; F. Hoffmann-La Roche AG v. Macalve e-dominios S.A., WIPO Case No. D2006-0451; Telstra Corporation Limited v. Nuclear Marshmallows, WIPO Case No. D2000-0003; L'Oréal v Tina Smith, WIPO Case No. 2013-0820; Titoni AG v Runxin Wang, WIPO Case No. D2008-0820; and Alstom v. Itete Peru S.A. WIPO Case No. D2009-0877).

Therefore, the Panel finds that the disputed domain name is confusingly similar to the UNIVERSITY OF PHOENIX mark and the element under paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the complainant to show that the respondent has no rights or interests in respect of the domain name. Once the complainant establishes a prima facie case that the respondent lacks rights or legitimate interests in the domain name, the burden of production shifts to the respondent to show that it has rights or legitimate interests in respect to the domain name (see WIPO Overview 3.0, paragraph 2.1).

In the present case, the Complainant has demonstrated prima facie that the Respondent lacks rights or legitimate interests in respect of the disputed domain name and the Respondent has failed to assert any such rights or legitimate interests.

The Complainant submitted evidence that it did not authorize or license the Respondent to use the UNIVERSITY OF PHOENIX mark (See OSRAM GmbH. v. Mohammed Rafi/Domain Admin, Privacy Protection Service INC d/b/a PrivacyProtect.org, WIPO Case No. D2015-1149; Sanofi-Aventis v. Abigail Wallace, WIPO Case No. D2009-0735).

In addition, the evidence submitted by the Complainant shows that the Respondent is not commonly known by the disputed domain name.

The Respondent did not submit a response in the present case and did not provide any explanation or evidence to show rights or legitimate interests in the disputed domain name which is sufficient to rebut the Complainant's prima facie case.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain name and accordingly, paragraph 4(a)(ii) of the Policy is satisfied.

C. Registered and Used in Bad Faith

The complainant must show that the respondent registered and is using the disputed domain name in bad faith (Policy, paragraph 4(a)(iii)). Paragraph 4(b) of the Policy provides circumstances that may evidence bad faith under paragraph 4(a)(iii) of the Policy.

The Complainant has submitted evidence that the disputed domain name <universityofphoenixdebtorgiveness.com> resolves to a webpage which shows “University of Phoenix Debt Forgiveness” and “For Federal & Private Student Loans”. A contact number is also provided and a link which states “Verify Eligibility”. The background of the websites also features what appears to be a photograph of a monument-style sign that displays the Complainant’s UNIVERSITY OF PHOENIX logo mark. The Respondent’s webpage appears to offer student loans under the guise of the Complainant. By such conduct, the Respondent is perpetuating a common scam in an attempt to mislead students and unsuspecting loan holders for the Respondent’s own profit.

Previous panels have recognized that such scams should not be rewarded and that the involved domains should be transferred to the injured mark holders (see Bridgepoint Education, Inc., Case No. D2016-2048 (transferring the <ashfordloanforgiveness.com> domain to complainant and finding that “Respondent registered and has been using the Domain Name to operate a scam to receive fees from unwitting Ashford students who seek to reduce their student debt.”); Le Cordon Bleu International B.V., Case No. D2016-0718 (transferring the <lecordonbleuloanforgiveness.com> domain name to complainant and stating “it seems implied . . . that the Respondent's website operates in accordance with a related loan forgiveness scheme.”); Apollo Education Group, Inc. v. Milen Radumilo, Case. No. 101664 (transfer; finding, “The evidence on record shows that the disputed domain name has been used with the intention of obtaining information under false pretenses and likely deriving in unjust enrichment to the benefit of the Respondent.”).

It is also the Complainant’s evidence that the Respondent could not have registered the disputed domain name without prior knowledge of the Complainant’s mark as the Respondent’s name has no connection with the Complainant’s UNIVERSITY OF PHOENIX mark which was registered more than thirty decades ago. This is another indicator of bad faith on the part of the Respondent (see Boursorama SA v. Estrade Nicolas, WIPO Case No. D2017-1463). The Complainant’s evidence also indicates that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant’s mark.

In addition, the Respondent did not submit a Response in this proceeding and used a privacy service to mask its identity which are further indications of the Respondent’s bad faith, which were considered by the Panel.

Based on the evidence presented to the Panel, including the confusing similarity between the disputed domain name and the Complainant’s mark, the fact that the disputed domain name purports to be a scam and the fact that no Response was submitted by the Respondent, the Panel draws the inference that the disputed domain name was registered and is being used in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **UNIVERSITYOFPHOENIXDEBTORGIVENESS.COM**: Transferred

## PANELLISTS

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| Name | **Mr. Jonathan Agmon** |

DATE OF PANEL DECISION 2020-12-17

Publish the Decision