

Decision for dispute CAC-UDRP-104298

Case number CAC-UDRP-104298

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Domain names lendingcluboffice.com

Case administrator

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

Complainant

Organization LendingClub Bank, National Association

Complainant representative

Organization RODENBAUGH LAW

Respondent

Name Qian Meng Dan

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 names.

IDENTIFICATION OF RIGHTS

The Complainant is the owner of numerous trademarks worldwide, including but not limited to the following:

- U.S. Trademark Registration No. 3,513,349 for "Lending Club", registered on October 7, 2008;
- U.S. Trademark Registration No. 5,470,831 for "LENDINGCLUB", registered on May 15, 2018;
- Australian Trademark No. 1903941 for "LendingClub" (and design), registered on September 11, 2017; and
- Canadian Trademark No. TMA1069810 for "LendingClub" (and design), registered on January 16, 2020.

The Complainant states that it also owns the domain name <lendingclub.com> for its primary website and the <lendingcluboffers.com> domain name for its promotional website.

FACTUAL BACKGROUND

The Complainant, LendingClub Bank, National Association, was founded in 2006 and is a leading digital marketplace bank based in the United States and operates internationally. The Complainant offers a broad range of financial products and services through a technology-driven platform, designed to help its members pay less when borrowing and earn more when saving. Since 2007, more than 3.8 million members have joined the Complainant's membership scheme.

The disputed domain names were all registered on August 30, 2021, which resolved to parking pages containing pay-per-

click ("PPC") links.

PARTIES CONTENTIONS

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

PARTIES' CONTENTIONS:

COMPLAINANT:

The Complainant contends that the disputed domain names are confusingly similar to the LENDING CLUB mark on the basis that each of the disputed domain name is an obvious misspelling of the Complainant's trademark with typographical differences by adding letters (such as in <leendingcluboffers.com>, substituting letters (such as in <lendingcluboffers.com>) or by removing letters (such as in <lendingcluboffers.com>), the addition of a generic term "offers" and the generic top-level domain name suffix ("gTLD") ".com" are insufficient to avoid the finding that the disputed domain names are confusingly similar to its LENDING CLUB mark.

The Complainant also argues that the Respondent does not have any rights or legitimate interests in the disputed domain names. The Respondent is not commonly known by any of the disputed domain names. In addition, the Respondent is not affiliated with the Complainant nor did the Complainant license or authorize the Respondent to use the LENDING CLUB mark.

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

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain names are 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 names (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 names have been registered and are 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.

Preliminary Issue: Language of Proceedings

Paragraph 11 of the Rules provides that:

"(a) Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding."

The language of the Registration Agreement for the several of the disputed domain names is Chinese.

The Complainant requested that the language of the proceeding be English for the following reasons:

(i) all the disputed domain name websites are in English; and

(ii) the disputed domain names consist of additions of variations of the English words “office” and “offers”.

The Respondent did not comment on the language of the proceeding.

The Panel cites the following with approval: “Thus, the general rule is that the parties may agree on the language of the administrative proceeding. In the absence of this agreement, the language of the Registration Agreement shall dictate the language of the proceeding. However, the Panel has the discretion to decide otherwise having regard to the circumstances of the case. The Panel’s discretion must be exercised judicially in the spirit of fairness and justice to both parties taking into consideration matters such as command of the language, time and costs. It is important that the language finally decided by the Panel for the proceeding is not prejudicial to either one of the parties in his or her abilities to articulate the arguments for the case.” (See *Groupe Auchan v. xmxzl*, WIPO Case No. DCC2006 0004).

Having considered the above factors, the Panel determines that English be the language of the proceeding. The Panel agrees that the Respondent appear to be familiar with the English language, taking into account the Respondent’s selection of the English-language trademark and the domain names in dispute. In the absence of an objection by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint and evidence into Chinese.

PRINCIPAL REASONS FOR THE DECISION

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 LENDING CLUB trademark in U.S., Australia and Canada.

The differences between the disputed domain names and the Complainant’s LENDING CLUB trademark are typographical differences by adding letters (such as in <leendingcluboffers.com>, substituting letters (such as in <lrndingcluboffers.com>) or by removing letters (such as in <lendincluboffers.com>), the addition of a descriptive term “offers” and the gTLD “.com”.

It is established that a domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element. (See WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“WIPO Overview 3.0”), section 1.9).

It is also established that where a trademark is recognizable within the disputed domain name, the addition of a descriptive term would not prevent a finding of confusing similarity under the first element. (See WIPO Overview 3.0, section 1.8). It is also established that where a trademark is recognizable within the disputed domain name, the addition of a descriptive term would not prevent a finding of confusing similarity under the first element. (See WIPO Overview 3.0, section 1.8). It is further 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).

Each of the disputed domain name consists of obvious misspellings of the Complainant’s LENDING CLUB mark, the addition of the descriptive term “offers” and a gTLD “.com” which in the Panel’s view does not avoid confusing similarity with the Complainant’s trademark.

Therefore, the Panel finds that the disputed domain names are confusingly similar to the LENDING CLUB 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 names 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 LENDING CLUB 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). The Complainant also submitted evidence that its registrations and use of the trademarks predate the registrations of the disputed domain names by at least 13 years.

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

The Complainant also submitted evidence that the disputed domain names are typosquatted versions of its LENDING CLUB trademark which is further proof that the Respondent has no rights or legitimate interests under the Policy (see Spotify AB v. The LINE, Forum Case No. 1765498; The Hackett Group, Inc. v. Brian Hens, Forum Case No. 1597465).

The Complainant further submitted evidence that the disputed domain names resolved to parking pages with PPC links which past panels have found that is not a bona fide offering of goods or services or legitimate non-commercial or fair use of the disputed domain name (see Vance Int'l, Inc. v. Abend, Forum Case No. FA 970871; Mayflower Transit LLC v. Domains by Proxy Inc./Yariv Moshe, WIPO Case No. D2007-1695).

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 names which is sufficient to rebut the Complainant's prima facie case. In the particular circumstances of the present case, the Respondent's use of the disputed domain names to host parked pages comprising PPC links which compete with the Complainant do not represent a bona fide offering of goods or services.

The Panel is therefore of the view that the Respondent has no rights or legitimate interests in respect of the disputed domain names 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 names resolved to parked pages comprising PPC links which compete with the Complainant.

In this case, the evidence shows that the Complainant's mark has attained significant goodwill and reputation. The significant goodwill and reputation of the Complainant's mark is evidence that the Respondent is unlikely to have registered the disputed domain names without sight and knowledge of the Complainant's mark and it is implausible that there is any good faith use to which the disputed domains name may be put to. It is also the Complainant's evidence that the Respondent could not have registered the disputed domain names without prior knowledge of the Complainant's mark as the Respondent's name has no connection with the Complainant's LENDING CLUB mark which was registered long 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 Respondent did not submit a Response in this proceeding which is a further indication of the Respondent's bad faith, which was considered by the Panel.

Based on the evidence presented to the Panel, including the confusing similarities between the disputed domain names and

the Complainant's mark and the fact that the disputed domain names were used to host parked pages comprising PPC links, the Panel draws the inference that the disputed domain names were registered and are 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. LENDINGCLUBOFFICE.COM: Transferred
2. LENDINGCLUBOFFEERS.COM: Transferred
3. LENDINGCLUBOFFERSS.COM: Transferred
4. LENDINGCLUBOFFES.COM: Transferred
5. LENDINGCLUBOFFERS.COM: Transferred
6. LENDINGCLUBOFFERS.COM: Transferred
7. LENDINGCLUBOFFERA.COM: Transferred
8. LENDINGCLUBOFFERRS.COM: Transferred
9. LENDINGCLUBOFFETS.COM: Transferred
10. LENDINGCLUBOFFRS.COM: Transferred
11. LENDINGCLUBOFFWRS.COM: Transferred
12. LENDINGCLUBSOFFERS.COM: Transferred
13. LENDINGCLUBFFERS.COM: Transferred
14. LENDINGCLUBIFFERS.COM: Transferred
15. LENDINGCLUBOFERS.COM: Transferred
16. LENDINGCLUBOFFERD.COM: Transferred
17. LENDINGCLUBOFFRRS.COM: Transferred
18. LENDINGCLUBPFFERS.COM: Transferred
19. WWWLENDINGCLUBOFFERS.COM: Transferred
20. LENDINGCLUBBOFFERS.COM: Transferred
21. LENDINGCLUBOFFEES.COM: Transferred
22. LENDINGCULBOFFERS.COM: Transferred
23. LNDINGCLUBOFFERS.COM: Transferred
24. LEDINGCLUBOFFERS.COM: Transferred
25. LENINGCLUBOFFERS.COM: Transferred
26. LENDNGCLUBOFFERS.COM: Transferred
27. LENDIGCLUBOFFERS.COM: Transferred
28. LENDINGLUBOFFERS.COM: Transferred
29. LENDINGCUBOFFERS.COM: Transferred
30. LENDINGCLBUOFFERS.COM: Transferred
31. LENDINGCLBOFFERS.COM: Transferred
32. LEENDINGCLUBOFFERS.COM: Transferred
33. LENNDINGCLUBOFFERS.COM: Transferred
34. LENDIINGCLUBOFFERS.COM: Transferred
35. LENDINNGCLUBOFFERS.COM: Transferred
36. LENDINGGCLUBOFFERS.COM: Transferred
37. LENDINGCCLUBOFFERS.COM: Transferred
38. LENDINGCLLUBOFFERS.COM: Transferred
39. LENDINGCLUUBOFFERS.COM: Transferred
40. KENDINGCLUBOFFERS.COM: Transferred
41. LRNDINGCLUBOFFERS.COM: Transferred
42. LWNDINGCLUBOFFERS.COM: Transferred
43. LEMDINGCLUBOFFERS.COM: Transferred
44. LEBDINGCLUBOFFERS.COM: Transferred
45. LENFINGCLUBOFFERS.COM: Transferred

46. LENSINGCLUBOFFERS.COM: Transferred
 47. LENDONGCLUBOFFERS.COM: Transferred
 48. LENDUNGCLUBOFFERS.COM: Transferred
 49. LENDIMGCLUBOFFERS.COM: Transferred
 50. LENDIBGCLUBOFFERS.COM: Transferred
 51. LENDINHCLUBOFFERS.COM: Transferred
 52. LENDINFCLUBOFFERS.COM: Transferred
 53. LENDINGVLUBOFFERS.COM: Transferred
 54. LENDINGXLUBOFFERS.COM: Transferred
 55. LENDINGCKUBOFFERS.COM: Transferred
 56. LENDINGCLIBOFFERS.COM: Transferred
 57. LENDINGCLYBOFFERS.COM: Transferred
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PANELLISTS

Name	Mr. Jonathan Agmon
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DATE OF PANEL DECISION	2022-03-31
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Publish the Decision
