

## **ADMINISTRATIVE PANEL DECISION**

CNU Online Holdings, LLC v. Grina Merlinda  
Case No. D2022-0062

### **1. The Parties**

The Complainant is CNU Online Holdings, LLC, United States of America (“United States”), represented by Squire Patton Boggs (US) LLP, United States.

The Respondent is Grina Merlinda, Russian Federation.

### **2. The Domain Name and Registrar**

The disputed domain name <cashnetusaapplynow.com> is registered with Registrar of Domain Names REG.RU LLC (the “Registrar”).

### **3. Procedural History**

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on January 7, 2022. On January 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 11, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on February 2, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. On the same date, the Center sent to the Parties a document in English and Russian in relation to the language of the proceeding. On February 8, 2022, the Complainant filed an amended Complaint and a request for English to be the language of the proceeding. The Respondent did not file comments on the language of the proceeding.

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 notified in English and Russian the Respondent of the Complaint, and the proceedings commenced on February 11, 2022. In accordance with the Rules, paragraph 5, the due date for Response was March 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 7, 2022.

The Center appointed Assen Alexiev as the sole panelist in this matter on March 11, 2022. 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 Complainant is a financial services company that provides personal loans under the brand CASHNETUSA to online consumers.

The Complainant is the owner of the trademark registration for the sign “CASHNETUSA” (the “CASHNETUSA trademark”):

- the United States trademark CASHNETUSA with registration No. 3210976, registered on February 20, 2007 for services in International Class 36; and
- the United States trademark CASHNETUSA.COM with registration No. 3380743, registered on February 12, 2008 for services in International Class 36.

The disputed domain name was registered on October 15, 2019. It resolves to a website that offers consumer loans.

#### **5. Parties' Contentions**

##### **A. Complainant**

The Complainant states that the disputed domain name is confusingly similar to their CASHNETUSA trademark, because it prominently features this trademark in its entirety.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name, because the Complainant is the sole owner of the CASHNETUSA trademark and has not given the Respondent permission to use it, and the Respondent has no basis to claim rights to the CASHNETUSA trademark. The Complainant notes that the Respondent registered the disputed domain name in 2019, by which time the Complainant had already registered and used the CASHNETUSA trademark for many years. According to the Complainant, the Respondent's use of the CASHNETUSA trademark in the disputed domain name directly infringes the Complainant's trademark rights.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. According to it, the Respondent had prior knowledge of the Complainant's trademark when registering the disputed domain name, and intended to trade off the goodwill associated with it. The Complainant submits that the Respondent attempts to use the Complainant's status as a licensed loan provider to induce unsuspecting consumers into engaging with the Respondent in the mistaken belief that they are engaging with the Complainant, which harms their interests, because the website at the disputed domain name requests personally identifiable information, such as bank account and routing numbers, social security numbers, physical address, and employer information. The Complainant notes that the Respondent provides false contact information, so injured consumers cannot seek redress, and states that it attempted to deliver cease and desist letters to the Respondent's physical and email addresses, but these addresses were invalid.

##### **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Procedural issue – Language of the proceeding**

According to the information provided by the Registrar, the language of the Registration Agreement for the disputed domain name is Russian. Under paragraph 11 of the Rules, 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 Complainant requests that the language of proceedings be English. It notes that the website at the disputed domain name is entirely in English with no Russian translation option, and the available locations on it that a user can choose from include locations in the United States. The Complainant also notes that it is located in the United States and has no knowledge of Russian, so to proceed in this language, it would have to retain the services of a translator which would pose a high cost and cause undue delay.

The Center has sent all its communications to the Respondent in both English and Russian, and has invited the Respondent to express its views on the language of the proceeding. The Respondent has not submitted a Response or any objections to the Complainant's request that the proceedings be held in English, and the website at the disputed domain name is indeed in English, offers services only to United States citizens and lists contact locations only in the United States.

The above satisfies the Panel that the Respondent would not be disadvantaged if the language of the proceeding is English, and that using the English language in this proceeding would be fair and efficient.

Therefore, in exercise of its powers under paragraph 11 of the Rules, the Panel decides that the language of this administrative proceeding will be English.

### **6.2. Substantive issues**

Pursuant to the Policy, paragraph 4(a), the Complainant must prove each of the following to justify the transfer of the disputed domain name:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- (iii) the Respondent has registered and is using the disputed domain name in bad faith.

In this case, the Center has employed the required measures to achieve actual notice of the Complaint to the Respondent, in compliance with the Rules, paragraph 2(a), and the Respondent was given a fair opportunity to present its case.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to: “[r]espond specifically to the statements and allegations contained in the complaint and include any and all bases for the Respondent (domain name holder) to retain registration and use of the disputed domain name [...]”

The Respondent however did not submit a Response in this proceeding.

#### **A. Identical or Confusingly Similar**

The Complainant has provided evidence that he is the owner of the CASHNETUSA trademark and has thus established its rights in this trademark for the purposes of the present proceeding.

The Panel notes that a common practice has emerged under the Policy to disregard in appropriate

circumstances the Top-Level Domain (“TLD”) section of domain names for the purposes of the comparison under the Policy, paragraph 4(a)(i). See section 1.11.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”). The Panel sees no reason not to follow the same approach here, so it will disregard the “.com” TLD section of the disputed domain name.

The disputed domain name incorporates the CASHNETUSA trademark in its entirety with the addition of the dictionary words “apply” and “now”, and the trademark is easily recognizable in the disputed domain name. In cases where a domain name incorporates the entirety of a trademark, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing. See section 1.7 of the [WIPO Overview 3.0](#).

In view of the above, the Panel finds that the disputed domain name is confusingly similar to the CASHNETUSA trademark in which the Complainant has rights.

## **B. Rights or Legitimate Interests**

While the overall burden of proof in UDRP proceedings is on the complainant, UDRP panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the often-impossible 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. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. See section 2.1 of the [WIPO Overview 3.0](#).

The Complainant contends that the Respondent has no rights or legitimate interests in the disputed domain name, stating that the Complainant has not authorized the Respondent to use the CASHNETUSA trademark, and that the Respondent is using the disputed domain name for a website that offers consumer loans, which coincides with the activities of the Complainant. Thus, 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 submitted a Response and has not alleged that it has rights or legitimate interests in the disputed domain name and has not disputed the Complainant’s allegations in this proceeding. The disputed domain name combines the CASHNETUSA trademark with the slogan “apply now”, and the evidence in the case file shows that it indeed resolves to a website that offers consumer loans and features the CASHNETUSA trademark of the Complainant, without containing a disclaimer for the lack of relationship between the Parties.

In view of the above, the Panel is satisfied that it is more likely than not that the Respondent, being well aware of the goodwill of the Complainant’s CASHNETUSA trademark, has registered the disputed domain name in an attempt to exploit the trademark’s goodwill to attract Internet users to the Respondent’s website by impersonating the Complainant. To the Panel, such conduct does not appear to be legitimate nor giving rise to rights or legitimate interests of the Respondents in the disputed domain name.

Therefore, the Panel finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

## **C. Registered and Used in Bad Faith**

Paragraph 4(b) of the Policy lists four illustrative alternative circumstances that shall be evidence of the registration and use of a domain name in bad faith by a respondent, namely:

“(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant,

for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or

(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location."

As discussed above, the disputed domain name is confusingly similar to the CASHNETUSA trademark and includes the slogan "apply now", and resolves a website that offers consumer loans in competition with the Complainant and features the CASHNETUSA trademark, but does not contain a disclaimer for the lack of relationship with the Complainant.

Taking the above into account, the Panel accepts that it is more likely than not that the Respondent has registered and used the disputed domain name with knowledge of the Complainant and targeting the CASHNETUSA trademark in an attempt to attract, for commercial gain, Internet users to the Respondent's website, by creating a likelihood of confusion with the CASHNETUSA trademark as to the affiliation or endorsement of its website and the services offered on it. There is also the risk that the Respondent may be collecting sensitive personal information from such confused visitors of its website, as it requires them to submit their bank account numbers and proof of stable income.

Therefore, the Panel finds that the disputed domain name has been registered and used in bad faith.

## **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 <cashnetusaapplynow.com> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: March 17, 2022