

ADMINISTRATIVE PANEL DECISION

Payoneer, Inc. v. 徐冲冲 (xu chongchong), Domains By Proxy, LLC / Contact Privacy Inc. Customer 0137812333
Case No. D2022-2116

1. The Parties

The Complainant is Payoneer, Inc., United States of America (“United States”), represented by SafeNames Ltd., United Kingdom.

The Respondents are 徐冲冲 (xu chongchong), China, Domains By Proxy, LLC, United States / Contact Privacy Inc. Customer 0137812333, Canada, represented by Glacier Law LLP, United States.

2. The Domain Names and Registrars

The disputed domain name <ipayoneer.com> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn), and the disputed domain name <payoneers.com> is registered with GoDaddy.com, LLC (collectively the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 10, 2022. On June 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On June 13 and June 14, 2022, the Registrar transmitted by email to the Center its verification responses disclosing registrants and contact information for the disputed domain names which differed from the named Respondents and contact information in the Complaint. The Center sent an email communication to the Complainant on June 14, 2022 providing the registrants and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint in English on July 16, 2022.

On June 14, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on June 16, 2022. The Respondents did not comment on the language of the proceeding.

The Center verified that the Complaint together with 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 the Respondents in English and Chinese of the Complaint, and the proceedings commenced on June 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 11, 2022. The Response in English was filed with the Center on July 11, 2022.¹

The Center appointed Deanna Wong Wai Man as the sole panelist in this matter on July 21, 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 company active in the financial services sector, headquartered in the United States. The Complainant was founded in 2005 and specializes in online money transfer and digital payment services, for which it uses its PAYONEER trademark. The Complainant has grown substantially since its incorporation, currently employing over 2,000 employees across over 20 global offices, processing cross-border payments in over 190 countries and territories, and serving more than five million customers. The Complainant claims to have a strong online presence through its social media channels and its official websites.

The Complainant owns a portfolio of trademark registrations for PAYONEER, for instance, United States trademark registration number 3,380,029, for the word mark PAYONEER, registered on February 12, 2008; and United States trademark registration number 3,380,030, for the logo mark PAYONEER, also registered on February 12, 2008. The abovementioned trademarks were both registered before the earliest registration date of either disputed domain names, which were registered on, respectively, April 11, 2010 (for <payoneers.com>) and February 4, 2018 (for <ipayoneer.com>). The Complainant also provides evidence of ownership of registered trademarks for PAYONEER (word and logo marks) registered after these dates.

Upon the Panel's review, the disputed domain name <payoneers.com> is currently linked to an active website offering it for sale and displaying what are presumed to be pay-per-click hyperlinks. The Complainant also provides evidence that in the past, the disputed domain name <payoneers.com> was linked to a variety of different websites, including parked pages offering this disputed domain name for sale, parked pages containing pay-per-click hyperlinks, and to a website offering payroll services and related services. Furthermore, upon the Panel's review, the disputed domain name <ipayoneer.com> is currently not linked to an active website, but the Complainant provides evidence that in the past it was linked to a parked page very similar to the parked website to which the disputed domain name <payoneers.com> linked in the past, which suggested that this disputed domain name was being offered for sale.

The Complainant provides evidence that it attempted to resolve this proceeding amicably by sending a number of cease-and-desist letters to the Respondent. The Respondents essentially answered (via emails on February 2, 2022, February 5, 2022, and February 14, 2022) that the Complainant could buy the disputed domain names back but that the Respondents were not willing to transfer them without payment.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain names are confusingly similar to its prior registered trademarks, covering multiple jurisdictions, for PAYONEER, that the Respondents have no rights or legitimate interests in respect of the disputed domain names, and that the disputed domain names were

¹ The Panel notes that the Response was filed by the Respondent xu chongchong, and the Panel will discuss the consolidation of multiple Respondents under section 6.1 of the Decision.

registered, and are being used in bad faith. The Complainant also refers to earlier UDRP cases in which the respective panels have recognized the Complainant's rights in its trademarks for PAYONEER and the strong and widespread reputation of such marks (see for instance *Payoneer, Inc v. Yin Jun (尹军)*, WIPO Case No. [D2022-0517](#) and *Payoneer, Inc. v. Privacy Service Provided by Withheld for Privacy ehf / Irfan Hanif, Oonsoft*, WIPO Case No. [D2022-1310](#)).

In its Complaint and amended Complaint, the Complainant essentially contends that the Respondents chose to register the disputed domain names which only differ one letter from the Complainant's trademarks for PAYONEER and that the disputed domain names therefore remain confusingly similar to such trademarks. The Complainant also contends that the disputed domain names were clearly calculated to capitalize on the reputation of the Complainant's PAYONEER marks and can therefore not constitute good faith use within the meaning of paragraph 4(c)(i) of the Policy. The Complainant also argues that the top search results for the term "payoneer" on various online search engines clearly pertain to the Complainant's offerings and that an online search therefore would have also made the Respondent aware of the Complainant's protected rights in the PAYONEER mark. Furthermore, the Complainant argues that, based on the previous contents of the websites linked to the disputed domain names, the Respondent has primarily registered the disputed domain names for the purpose of selling them to the Complainant for consideration in excess of the documented costs of said domain names, and that given the presence of pay-pay-click hyperlinks on such websites, the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant's PAYONEER mark. Finally, the Complainant also argues that the Respondent has engaged in a pattern of abusive conduct by registering other domain names which encompass the marks of well-known third-party brands.

The Complainant requests the transfer of the disputed domain names.

B. Respondents

In their Response, the Respondents essentially contend that the disputed domain names are not confusingly similar to the Complainant's trademarks, since the Complainant would only have trademark rights in a stylized mark. As to the second element test, the Respondents essentially argue that they have rights or legitimate interests in the disputed domain names based on their legal purchase and registration of the disputed domain names and provide evidence of such purchase and registration. The Respondents also contend that they have been making a legitimate noncommercial or fair use of the disputed domain names, without intent for commercial gain misleadingly to divert consumers or to tarnish the trademark or service mark at issue. As to the third element test, the Respondents essentially argue that they did not register or use the disputed domain names in bad faith, that they did not attempt to sell the disputed domain names in excess of the documented costs and that there is no pattern of bad faith conduct. The Respondents also particularly argue that the Complainant fails to provide evidence of the reputation of its trademarks in relation to China where the Respondent resides.

The Respondents request to deny the Complaint.

6. Discussion and Findings

6.1 First Preliminary Issue: Consolidation of Respondents

The Complainant requests consolidation in regard to the Respondents, as the disputed domain names are currently owned by nominally multiple persons. In this regard, the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (the "[WIPO Overview 3.0](#)") states in section 4.11.2: "where a complaint is filed against multiple Respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario."

The Panel has carefully reviewed all elements of this case, giving particular weight to the following elements: the fact that the Complainant provides evidence of historical Whois records which connects the name, the address, and the email address for the registrant of the disputed domain names to the Respondent, the fact that the disputed domain names were previously linked to very similar parked websites and, finally, the fact that the Respondents implicitly accept the consolidation in this case by filing their Response in relation to both disputed domain names, so that the Panel finds that the consolidation request is appropriate. Furthermore, the Respondents provided the payment proof for the purchase of the disputed domain names.

In view of these elements, the Panel finds that the consolidation is fair and equitable to all parties involved and safeguards procedural efficiency. The Panel therefore decides to accept the consolidation of the Respondents in this case, and will hereinafter refer to the Respondents as “the Respondent”.

6.2 Second Preliminary Issue: Language of the Administrative Proceeding

Pursuant to paragraph 11(a) of the Rules, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.

The Complainant filed its Complaint in English, including a request that the language of the proceeding be English. On June 21, 2022, the Center formally notified the Respondent in Chinese and English of the Complaint and of the commencement of the proceeding, including that the Complaint and the amended Complaint in English. The Center also notified the Respondent in Chinese and English of its right to file a Response in either Chinese or English, and to comment on the language of the proceeding in its Response. The Respondent filed a Response in English on July 11, 2022, in which it did not comment on the language of the administrative proceeding.

The Panel has carefully considered all elements of this case, in particular, the Complainant’s request that the language of the proceeding be English and the fact that the Respondent filed his Response in English and did not comment on the language of the proceeding and the fact that the previous communication between the Parties took place in English. The Panel finds that the Respondent is able to communicate in English and does not object to English as the language of the proceeding. In view of these elements, the Panel decides that the language of the administrative proceeding shall be English.

6.3 Discussion and Findings on the merits

The Policy requires the Complainant to prove three elements:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

Based on the evidence and arguments submitted, the Panel’s findings are as follows:

A. Identical or Confusingly Similar

The Panel finds that the Complainant has provided sufficient evidence that it has (valid and prior) rights in its above-mentioned registered trademarks for PAYONEER. The Panel disagrees with the Respondent’s argument that the Complainant would only have rights in a stylized version of the mark PAYONEER, and refers to the above-mentioned two United States trademark registrations for the word mark and the logo mark PAYONEER, both clearly containing the sign PAYONEER. Furthermore, the Panel rejects the Respondent’s arguments regarding the word “hero” as irrelevant in this proceeding, as neither the disputed domain names nor any of the trademarks relied on in this proceeding contain such word.

Furthermore, as to confusing similarity, the [WIPO Overview 3.0](#), section 1.7, states: “in cases where a domain name incorporates the entirety of a trademark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered confusingly similar to that mark for purposes of UDRP standing”. In this case, the Panel considers that the disputed domain names both incorporate the entirety of the Complainant’s trademark for PAYONEER, the only difference between such mark and the disputed domain names being the addition of the single letter “i” for the disputed domain name <ipayoneer.com> and the addition of the single letter “s” for the disputed domain name <payoneers.com>. The applicable generic Top-Level Domain (“gTLD”) (“.com” in this case) is viewed as a standard registration requirement, and as such is disregarded by the Panel, see in this regard the [WIPO Overview 3.0](#), section 1.11.1.

Accordingly, the Panel finds that the disputed domain names are confusingly similar to the Complainant’s trademarks for PAYONEER and finds that the Complainant has satisfied the requirements of the first element under the Policy.

B. Rights or Legitimate Interests

On the basis of the evidence and arguments submitted, the Panel finds that the Complainant makes out a *prima facie* case that the Respondent is not, and has never been, an authorized reseller, service provider, licensee or distributor of the Complainant, is not a good faith provider of goods or services under the disputed domain names and is not making legitimate noncommercial use or fair use of the disputed domain names. The Panel also notes that the Respondent is not commonly known by the disputed domain names. As such, the Panel finds that the burden of production regarding this element shifts to the Respondent (see [WIPO Overview 3.0](#), section 2.1).

The Respondent essentially argues that he has rights or legitimate interests in the disputed domain names based on his legal purchase and registration of the disputed domain names and provides evidence of such purchase and registration. The Respondent furthermore contends that he has been making a legitimate noncommercial or fair use of the disputed domain names.

The Panel disagrees with the Respondent’s arguments. Firstly, it is the settled view of panels applying the Policy that the mere registration or successful transfer of ownership of a domain name does not establish rights or legitimate interests *per se* in such domain name (see in this regard for instance *Alain Afflelou Franchiseur v. Iihongbo*, WIPO Case No. [D2020-2074](#) and *National Football League Properties, Inc. and Chargers Football Company v. One Sex Entertainment Co., a/k/a chargergirls.net*, WIPO Case No. [D2000-0118](#)). Furthermore, upon review of the facts, the Panel notes that neither the current nor the historical use made of the disputed domain names points to the Respondent’s rights or legitimate interests. The Respondent, firstly, connected the disputed domain name <payoneers.com> to parked pages offering it for sale or containing pay-per-click hyperlinks to third party services which have clear commercial connotations to the Complainant’s payment-related offerings or to a page which even advertised the services of an entirely unaffiliated commercial third party (called “Smart Business Friend.com”), and, secondly, connected the disputed domain name <ipayoneer> to either inactive pages or to a simple landing page, containing text which suggested that it was for sale. It is clear to the Panel from the foregoing elements that the Respondent is not and has never been a good faith provider of goods or services under the disputed domain name. Based on the current and historical use of the disputed domain names, as proven by the Complainant, the Panel finds that the Respondent is using and was using the disputed domain names to divert consumers to the disputed domain names for commercial gain, by taking unfair advantage of the goodwill and reputation of the Complainant’s trademarks for PAYONEER.

On the basis of the foregoing, the Panel considers that none of the circumstances of rights or legitimate interests envisaged by paragraph 4(c) of the Policy apply, and that the Complainant has satisfied the requirements of the second element under the Policy.

C. Registered and Used in Bad Faith

The Panel finds that the registration (or in the case of <payoneers.com>, the acquisition) of the disputed domain names, containing the intentional misspelling of the Complainant's trademarks which had already obtained a strong reputation at that time, by the Respondent who is entirely unaffiliated with the Complainant, is by itself sufficient to create a presumption of bad faith of the Respondent (see in this regard also *Randstad Holding nv v. Pinaki Kar*, WIPO Case No. [D2013-1796](#) and *Alain Afflelou Franchiseur v. Lihongbo, Lihongbo*, WIPO Case No. [D2020-2075](#)). Furthermore, the Panel has reviewed the Complainant's evidence of the top search results, both on the date of this Decision and at the time of registration or acquisition of the disputed domain names, for the term PAYONEER on various online search engines (including both a China-based and a United States-based search engine), from which the Panel concludes that such results clearly pertain to the Complainant's business. Even a cursory Internet search at the time of registration or acquisition of the disputed domain names would have made it clear to the Respondent that the Complainant owned prior rights in its trademarks for PAYONEER. Moreover, given the worldwide nature of the Internet and the UDRP, the Panel disagrees with the argument presented by the Respondent that the Complainant had to provide evidence of a strong reputation in the Respondent's jurisdiction China at the time of registration of the disputed domain names. In the Panel's view, the preceding elements indicate the clear bad faith of the Respondent, and the Panel therefore finds that it has been demonstrated that the Respondent registered the disputed domain names in bad faith.

As to use of the disputed domain names in bad faith, both the evidence of current and historical use of the websites linked to the disputed domain names show that the Respondent is misleading and diverting Internet users for commercial gain to such websites. Moreover, based on the evidence of current and historical use of the websites linked to the disputed domain names, and based on the previous communication between the Parties, the Panel finds that the Respondent is attempting to sell the disputed domain names for an amount in excess of the Respondent's out-of-pocket costs. Finally, the Panel also finds that the Complainant sufficiently proves that the Respondent has been engaged in a pattern of trademark abusive domain name registrations. In this regard, the Panel refers to the reverse Whois evidence submitted by the Complainant, from which it can be concluded that the Respondent has registered several domain names containing well-known third party trademarks such as <amazonknow.com>, <uwalmart.cn>, and <uwalmart.top>. In the Panel's view, the preceding elements clearly establish the bad faith of the Respondent.

The Panel therefore finds that the Complainant has satisfied the requirements of the third element under 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 names, <ipayoneer.com> and <payoneers.com>, be transferred to the Complainant.

/Deanna Wong Wai Man/

Deanna Wong Wai Man

Sole Panelist

Date: August 4, 2022