

ADMINISTRATIVE PANEL DECISION

CNU Online Holdings, LLC v. andy willly
Case No. D2023-0218

1. The Parties

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

The Respondent is andy willly, United States of America.

2. The Domain Name and Registrar

The disputed domain name <cashanetusa.com> is registered with NameCheap, Inc. (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 18, 2023. On January 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 18, 2023, the Registrar transmitted by email to the Center its verification response for the disputed domain name which differed from the named Respondent (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on January 19, 2023, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on January 20, 2023.

The Center verified that the Complaint together with the amendment to the 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 Respondent of the Complaint, and the proceedings commenced on February 3, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 23, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 28, 2023.

The Center appointed William F. Hamilton as the sole panelist in this matter on March 3, 2023. 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 provides financial lending services.

The Complainant is the owner of numerous stylized registrations with United States Patent and Trademark Office of CASHNETUSA.COM, the earliest of which is Registration No. 3,380,743, dated June 14, 2006. The Complainant is also the owner of numerous registrations of the word trademark CASHNETUSA (hereinafter referred to as the "Mark"), with the United States Patent and Trademark Office, the earliest of which is Registration No. 4,521,941, dated April 29, 2014.

Since 2004, the Complainant owns and has operated its principal website at the domain name <cashnetusa.com>.

The disputed domain name <cashanetusa.com> was registered on February 27, 2022. The disputed domain name resolves to a website purported offering financial lender services and soliciting loan applications from prospective users which entails the submission of personally identifying information.

5. Parties' Contentions

A. Complainant

The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain is composed by merely adding the letter "a" between the words "cash" and "net" in the Mark. The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent (i) is not generally known by the disputed domain name, (ii) has never operated a business under the disputed domain name, (iii) has not advertised the disputed domain name, (iv) has never engaged in any *bona fide* commercial activity in connection with the disputed domain name. The Complainant asserts that the Respondent knew or should have known of the Mark with a reasonable investigation and that the Respondent registered and used the disputed domain name to trick and deceive unsuspecting Internet users seeking the Complainant to land at the Respondent's website offering competing consumer financial services.

B. Respondent

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

6. Discussion and Findings

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel that:

- (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 disputed domain name was registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel finds that the disputed domain name is confusingly similar to the Complainant's Mark.

The disputed domain name is confusingly similar to the Complainant's Mark because the disputed domain name only differs from the Mark by adding the letter "a" between the words "cash" and "net" in the Mark. The slight change in spelling of protected trademark in a disputed domain name does not prevent a finding of confusing similarity. 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. WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.9.

The Top-Level Domain of the disputed domain name, in this case ".com", may be disregarded for the purposes of assessment under the first element, as it is viewed as a standard registration requirement. See [WIPO Overview 3.0](#), section 1.11.1. *Monster Energy Company, a Delaware Corporation v. J.H.M. den Ouden*, WIPO Case No. [D2016-1759](#).

The Complainant has met its burden under paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Panel finds on the evidence presented that the Respondent has no rights or legitimate interests in the disputed domain name.

The Complainant has specifically disavowed providing the Respondent with permission to use the disputed domain name or the Mark. There is no evidence that the Respondent has conducted any *bona fide* business under the disputed domain name or is commonly known by the disputed domain name. The Complainant has established a *prima facie* case in its favor, which shifts the burden of production on this point to the Respondent.

The Respondent, however, has failed to come forth with any evidence showing any rights or legitimate interests in the disputed domain name. Moreover, unsuspecting Internet users will likely believe the disputed domain name will resolve to a website sponsored or affiliated with the Complainant.

The facts and circumstances presented to the Panel demonstrate that the Respondent does not have any rights or legitimate interests in the disputed domain name. The Complainant has met its burden under paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy, bad faith may be established by any one of the following non-exhaustive scenarios:

- (i) circumstances indicating that the respondent has registered or acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name 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 the respondent's documented out-of-pocket costs directly related to the domain name; or
- (ii) the respondent has 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 the respondent has engaged in a pattern of such conduct; or
- (iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor; or

- (iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other on-line location, 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 location or of a product or service on the respondent's website or location.

The Panel finds that the disputed domain name was registered and used in bad faith.

The disputed domain name only changes the Mark by adding the letter "a" between the words "cash" and "net" in the Mark. This trivial change in the Mark was obviously designed to confuse Internet users into believing the disputed domain name would resolve to a website sponsored or affiliated with the Complainant and to provide personally identify information while seeking a loan. The Panel also notes the similarities between the disputed domain name and the Complainant's domain name. No one can possibly believe that the Respondent innocently formed the disputed domain name by randomly cobbling together the words "cash," "net," and "usa", while also haplessly adding the meaningless and incongruous letter "a" to the disputed domain name. The Panel finds that the Respondent was fully aware of the Complainant's established Mark when registering and using the disputed domain name to attract unsuspecting Internet users to the Respondent's website in commercial competition with the Complainant.

The Complainant has met its burden under paragraph 4(a)(iii) of 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 name, <cashanetusa.com> be transferred to the Complainant.

/William F. Hamilton/

William F. Hamilton

Sole Panelist

Date: March 17, 2023