

ADMINISTRATIVE PANEL DECISION

Payoneer, Inc. v. 胡雪 (Ni Cary)

Case No. D2023-1759

1. The Parties

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

The Respondent is 胡雪 (Ni Cary), China.

2. The Domain Name and Registrar

The disputed domain name <payoneer.online> is registered with Chengdu West Dimension Digital Technology Co., Ltd. (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on April 20, 2023. On April 20, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 21, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

On April 21, 2023, 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 April 24, 2023. The Respondent did not comment on the language of the proceeding.

The Center verified that 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 in English and Chinese of the Complaint, and the proceedings commenced on April 27, 2023. In accordance with the Rules, paragraph 5, the due date for Response was May 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on May 19, 2023.

The Center appointed Rachel Tan as the sole panelist in this matter on June 5, 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 was founded in 2005 and is headquartered in New York City, United States. It is a financial services company specializing in online money transfer and digital payment services. The Complainant has more than 2,000 employees across 24 global offices. It processes cross-border payments in over 190 countries and territories and serves more than five million customers in more than 35 languages.

The Complainant is the owner of a range of trade mark registrations for its PAYONEER mark, including United States Trade Mark Registration No. 3380029, registered on February 12, 2008, in class 36; Australia Trade Mark Registration No. 1784751, registered on May 9, 2016, in classes 9 and 36; and International Trade Mark Registration No. 1303506, registered on May 9, 2016, designating, *inter alia*, China, in classes 9 and 36.

The Complainant's official website is "www.payoneer.com" and it also owns other domain name registrations that comprise of the PAYONEER mark such as <payoneer.us> and <payoneer.cash>.

The Respondent is 胡雪 (Ni Cary), China.

The disputed domain name was registered on December 9, 2022. At the time of filing of the Complaint, the disputed domain name was listed for sale for USD 200 on an online platform. It currently resolves to an active online platform indicating "This domain listing is deleted. The domain might become available for sale again in the future. Check back later".

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical to the Complainant's PAYONEER mark. In respect of the generic Top-Level Domain ("gTLD") ".online" featured in the disputed domain name, the Complainant requests the Panel to disregard this under the first element as it is a standard registration requirement.

The Complainant further alleges that the Respondent lacks a right or a legitimate interest in the disputed domain name. The Respondent does not have any trade mark rights to the term "payoneer". The Respondent did not receive any license from the Complainant to use domain names featuring the PAYONEER mark. The Respondent is not commonly known by the term "payoneer". The Complainant further submits that the Respondent uses the disputed domain name to redirect to the domain aftermarket website where the disputed domain name is advertised for sale at the price of USD 200. Instead of using the disputed domain name in connection with a *bona fide* offering of services, the Respondent has deliberately used the distinctive and fanciful PAYONEER mark in order to earn revenue through the sale of the disputed domain name.

The Complainant finally asserts that the Complainant's earliest trade mark registration predates the creation of the disputed domain name by 14 years. The Respondent's primary intention is to sell the disputed domain name. Further, the Complainant submits that the Respondent has engaged in a pattern of bad faith conduct.

B. Respondent

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

6. Discussion and Findings

6.1 Language of the Proceeding

Initially, the Panel must address the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the registration agreement unless otherwise agreed by the parties, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The panel may choose to write a decision in either language, or request translation of either party's submissions.

In this case, the Registrar has confirmed to the Center that the language of the Registration Agreement as used by the registrant for the disputed domain name is Chinese. However, the Complainant has requested that English be adopted as the language of the proceeding for the reasons summarized below:

- (a) the disputed domain name is solely composed of Latin characters, rather than Chinese script; and
- (b) the disputed domain name is, and has been, used to resolve to an English language content website;
- (c) the Respondent lists the disputed domain name for sale on another popular domain aftermarket website that is solely in English; and
- (d) the Complainant's representatives are based in the United Kingdom and requiring a translation would result in the incurrence of additional expense and unnecessary delay.

It is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding.

The Panel has considered the above circumstances, and finds that English shall be the language of this proceeding. The reasons are set out below.

- (a) the Complainant is a company headquartered in the United States. Requiring the Complainant to submit the Complaint in Chinese would lead to delay and cause the Complainant to incur translation expenses;
- (b) the Respondent's choice of Roman letters for the disputed domain name and the content of the resolved website in English indicate that the Respondent is familiar with the English language;
- (c) even if the Respondent does not possess a sufficient command of English to understand the Complaint, there were ample opportunities for the Respondent to raise an objection. The Center notified the Parties in English and Chinese of the Complainant's request for English to be the language of the proceeding, but the Respondent did not protest against this request;
- (d) the Respondent has failed to participate in the proceeding even though the Center sent the notification in English and Chinese of the Complaint; and
- (e) the Complaint has been submitted in English. No foreseeable procedural benefit may be served by requiring Chinese to be used. On the other hand, the proceeding may proceed expeditiously in English.

Accordingly, the Panel will proceed with issuing this Decision in English.

6.2 Substantive Issues

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the PAYONEER mark.

The Panel notes that the PAYONEER mark is wholly encompassed within the disputed domain name. In cases where a domain name incorporates the entirety of a trade mark, 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. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

It is permissible for the Panel to ignore the gTLD, in this case ".online". See section 1.11.1 of the [WIPO Overview 3.0](#).

Consequently, the Panel finds that the disputed domain name is confusingly similar to the Complainant's mark. Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

In circumstances where the Complainant possesses rights to the PAYONEER mark whereas the Respondent seems to have no trade mark rights, and considering the facts and arguments set out above, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided evidence of a legitimate use of the disputed domain name or reasons to justify the choice of a domain name that is confusingly similar to the Complainant's PAYONEER mark. Further, there is no indication to show that the Respondent is commonly known by the disputed domain name or otherwise has rights or legitimate interests in it. In addition, the Complainant has not granted the Respondent a license or authorization to use the Complainant's PAYONEER mark or to register the disputed domain name. Moreover, the Panel notes that the Respondent was previously offering the disputed domain name for sale and that the disputed domain name is identical to the Complainant's trademark, without any other explanation for its registration. None of these circumstances indicates a *bona fide* offering of goods or services or legitimate noncommercial or fair use of the disputed domain name within the meaning of paragraph 4(c) of the Policy are present in this case.

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name. Accordingly, the Panel finds that the Complainant has satisfied the second element under paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

The Complainant's PAYONEER mark has been registered in different jurisdictions. The disputed domain name was registered after the registration of the Complainant's PAYONEER mark. Through extensive use and advertising, the Complainant's PAYONEER mark is known throughout the world. Search results using the key word "payoneer" on the Internet search engine direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the PAYONEER mark and the Complainant has been established. In addition, the disputed domain name is identical to the Complainant's PAYONEER mark and almost identical to the Complainant's own domain names as listed in section 4 above. As such, the Respondent either knew or should have known of the Complainant's PAYONEER mark when registering the disputed domain name, and has exercised "the kind of willful blindness that numerous panels have held support a finding of bad faith". See *eBay Inc. v. Renbu Bai*, WIPO Case No. [D2014-1693](#); and *Barclays Bank PLC v. Andrew Barnes*, WIPO Case No. [D2011-0874](#).

Section 3.1.4 of the [WIPO Overview 3.0](#) states that “[...] mere registration of a domain name that is identical or confusingly similar (particularly domain name comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith”. In this case, the disputed domain name is confusingly similar to the widely-known PAYONEER mark and was registered by the Respondent who has no relationship with the Complainant, which means that a presumption of bad faith can be created.

In addition, the disputed domain name was being offered for sale for USD 200 on the resolved website, which is in excess of the normal costs for registering and maintaining a domain name. The absence of circumstances indicating that the Respondent has rights or legitimate interests in the disputed domain name leads the Panel to conclude that the Respondent’s intent in registering the disputed domain name was in fact to profit from or otherwise exploit the Complainant’s mark. In this case, the Panel finds the sale of the disputed domain name as evidence of bad faith registration and use. See section 3.1.1 of the [WIPO Overview 3.0](#).

The Panel also notes that the Respondent appears to be engaged in a pattern of abusive registration having registered multiple domain names comprising third party’s trade marks. The Panel finds this case is a continuation of that bad faith pattern. See *G4S Limited v. 胡雪 (Ni Cary)*, WIPO Case No. [D2022-1242](#). Such use constitutes further evidence of bad faith registration and use as contemplated under paragraph 4(b)(ii) of the Policy.

The Respondent has kept silent in the face of the Complainant’s allegations of bad faith. Taking into account of these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain name and, considering the Respondent’s lack of rights or legitimate interests, and by registering and using the disputed domain name as discussed above, the Panel is led to conclude that the disputed domain name was registered and is being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under paragraph 4(a) 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 <payoneer.online> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: June 19, 2023