

ADMINISTRATIVE PANEL DECISION

PayPal, Inc. v. open ai, hkma
Case No. DIO2023-0041

1. The Parties

The Complainant is PayPal, Inc., United States of America (“United States”), represented by Fenwick & West, LLP, United States.

The Respondent is open ai, hkma, China.

2. The Domain Name and Registrar

The disputed domain name <pyusd.io> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 31, 2023. On November 1, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On November 1, 2023, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to the Complainant on November 2, 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 amended Complaint on November 3, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 November 13, 2023.¹ In accordance with the Rules, paragraph 5, the due date for Response was December 3, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on December 4, 2023.

¹ The Panel notes that, while the Complaint was filed under the Policy, the notification documents incorrectly referred to the UDRP. The Panel is, however, satisfied that the Respondent received due notification of the Complaint and was given an appropriate opportunity to file a response. The Panel does not therefore find there to be any prejudice to the Respondent as a result of this issue.

The Center appointed Martin Schwimmer, James Wang, and Steven A. Maier as panelists in this matter on December 20, 2023. The Panel finds that it was properly constituted. Each member of 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 an online payment company located in California, United States. It has operated under the name and trademark PAYPAL since 1999. It is the owner of numerous trademark registrations for the mark PAYPAL, in countries throughout the world, dating from 2002.

The Complainant is the owner of BENELUX trademark registration number 1491219 for the word mark PYUSD, registered on September 27, 2023, with a priority date of July 24, 2023, in International Classes 9, 36 and 42.

On August 7, 2023, the Complainant announced the launch of a “stablecoin” product named PYUSD. A stablecoin is a cryptocurrency, the value of which is pegged to that of another asset, in this case the US Dollar. The Complainant states that consumers who purchased the stablecoin would be able to use it to transfer between compatible external wallets, send person-to-person payments, fund purchases, and convert the stablecoin to and from other supported cryptocurrencies. The Complainant submits evidence that its announcement was featured in numerous media reports that day, including (for example) an article on Bloomberg.com, which was timed at 05:50 PDT (12:50 UTC).

The Respondent’s registration of the disputed domain name swiftly followed the Complainant’s announcement, at 13:18 UTC on August 7, 2023.

The disputed domain name has resolved to a website headed “PYUSD.io – PayPal USD Stablecoin & Payments”. The website includes both English and Chinese text and makes numerous references to the Complainant’s PAYPAL and PYUSD trademarks. It includes a button link to “Connect Wallet” in the top right hand corner of the homepage.

5. Parties’ Contentions

A. Complainant

The Complainant contends that its PAYPAL trademark is widely known throughout the world, with annual revenues of over USD 27 billion deriving from its use of that mark in commerce. It also produces evidence of significant prominence of the PAYPAL mark as determined by global brand ranking agencies.

The Complainant submits that its PYUSD trademark obtained common law (i.e. unregistered) trademark rights immediately following its launch on August 7, 2023, owing to the widespread media coverage which its announcement received.

The Complainant submits that the disputed domain name is identical to its PYUSD trademark.

The Complainant submits that the Respondent has no rights or legitimate interests in respect of the disputed domain name. It states that it has no relationship with the Respondent and has never authorized it to use its PYUSD trademark, that the Respondent has not commonly been known by the disputed domain name and that the Respondent is making neither *bona fide* commercial use nor legitimate noncommercial or fair use of the disputed domain name.

The Complainant contends that the disputed domain name has been registered and is being used in bad faith. The Complainant submits that it is obvious that the Respondent registered the disputed domain name

in response to the Complainant's announcement of its PYUSD product earlier that date, and with the intention of taking unfair advantage of the Complainant's related rights. It contends that the Respondent's bad faith is further evident from its prominent use of the Complainant's PAYPAL and PYUSD trademarks on its website, thereby seeking to mislead Internet users into believing the website has some legitimate connection with the Complainant. Further, the Complainant produces evidence that the "Connect Wallet" link on the Respondent's website presents Internet users with a QR code, which the Complainant asserts enables the Respondent dishonestly to obtain users' personal data by way of a "phishing" enterprise.

The Complainant requests the transfer of the disputed domain name.

B. Respondent

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

6. Discussion and Findings

The Panel notes that the .IO Domain Name Dispute Resolution Policy is substantially similar (though not identical) to the Uniform Domain Name Dispute Resolution Policy (the "UDRP"). Where appropriate, therefore, in this Decision, the Panel applies principles established in connection with the UDRP.

In order to succeed in the Complaint, the Complainant is required to show that all three of the elements set out under paragraph 4(a) of the Policy are present. Those elements are 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 has been registered or is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights for the mark PYUSD. While the trademark was registered after the date of registration of the disputed domain name (albeit with a priority date that precedes the registration of the disputed domain name), that date is immaterial to the considerations under the first element under the policy, which functions principally as a requirement to establish standing to bring the proceeding. The disputed domain name is identical to the Complainant's PYUSD trademark and the Panel therefore finds that the disputed domain name is identical to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

In the view of the Panel, the Complainant's submissions set out above give rise to a *prima facie* case that the Respondent has no rights or legitimate interests in respect of the disputed domain name. However, the Respondent has failed to file a Response in this proceeding and has not submitted any explanation for its registration and use of the disputed domain names, or evidence of rights or legitimate interests on its part in the disputed domain names, whether in the circumstances contemplated by paragraph 4(c) of the Policy or otherwise. Nor does the content of the Respondent's website (whether in English or Chinese) provide any indication of rights or legitimate interests on the part of the Respondent. The Panel finds, to the contrary, that the Respondent has used the disputed domain name dishonestly to target the Complainant's trademark, which use cannot give rise to rights or legitimate interests. The Panel therefore finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

C. Registered or Used in Bad Faith

The Panel finds the Complainant's trademark PYUSD to be distinctive, and that there is no evidence of the use of that term in commerce (either in English or Chinese) otherwise than to identify the Complainant's stablecoin product. In these circumstances, and in the light of both the timing of the registration of the disputed domain name and the Respondent's failure to answer the Complainant's submissions, the Panel readily infers that the Respondent registered the disputed domain name, opportunistically and in bad faith, upon becoming aware of the Complainant's announcement on August 7, 2023.

While the trademark was registered after the date of registration of the disputed domain name (albeit with a priority date that precedes the registration of the disputed domain name), the Panel finds that the Complainant's announcement on the morning of August 7, 2023, together with the substantial media publicity immediately following from that announcement, was sufficient to invest to Complainant with common law trademark rights in the PYUSD mark prior to the registration of the disputed domain name. In any event, the registration of a domain name in anticipation of nascent trademark rights, e.g. following an announcement similar to the Complainant's, may also amount to registration in bad faith (see e.g. section 3.8.2 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#))).

Concerning the Respondent's use of the disputed domain name, the Panel finds that the appropriation of the Complainant's PYUSD trademark for the purpose of the disputed domain name constitutes in itself an impersonation of the Complainant. Moreover, the Panel accepts the Complainant's (unchallenged) submissions that the Respondent has used the disputed domain name for the purpose of a website which makes substantial use of the Complainant's PAYPAL and PYUSD trademarks, and seeks to mislead Internet users into sharing personal information by way of a "phishing" enterprise. The Panel therefore finds that, by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of its website or of products or services on its website (paragraph 4(b)(iv) of the Policy).

The Panel therefore finds that the disputed domain name has been registered and is being 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, <pyusd.io>, be transferred to the Complainant.

/Steven A. Maier/
Steven A. Maier
Presiding Panelist

/Martin Schwimmer/
Martin Schwimmer
Panelist

/James Wang/
James Wang
Panelist
Date: January 3, 2024