

## **ADMINISTRATIVE PANEL DECISION**

Payoneer, Inc. v. Privacy Service Provided by Withheld for Privacy ehf / Irfan Hanif, Oonsoft

Case No. D2022-1310

### **1. The Parties**

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

The Respondent is Privacy Service Provided by Withheld for Privacy ehf, Iceland / Irfan Hanif, Oonsoft, Pakistan.

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

The disputed domain name <payoneer.app> (the “Disputed Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on April 12, 2022. On April 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On April 12, 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 April 13, 2022 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 April 13, 2022. The Center received email communications from the Respondent on April 13 and April 14, 2022.

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 the Respondent of the Complaint, and the proceedings commenced on April 21, 2022. In accordance with the Rules, paragraph 5, the due date for Response was May 11, 2022. The Center received an email communication from the

Respondent on April 21, 2022. The Center notified the commencement of Panel appointment process on May 13, 2022. The Center received an email communication from the Respondent on May 13, 2022.

The Center appointed Gabriela Kennedy as the sole panelist in this matter on May 16, 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 New York headquartered company founded in 2005 that specializes in online money transfer and digital payment services. The Complainant has 2,000 employees across more than 20 global offices and processes cross-border payments in over 200 countries and territories, serving more than five million customers in more than 35 languages.

The Complainant owns a number of trademark registrations for the PAYONEER mark, including, *inter alia*, United States Trademark Registration Number 3380029 for PAYONEER registered on February 12, 2008, International Trademark Registration Number 1303506 for PAYONEER registered on May 9, 2016; United States Trademark Registration Number 3380030 for  registered on February 12, 2008; and International Trademark Registration Number 1633110 for  Payoneer registered on October 22, 2021 (the "Complainant's Trademark").

The Complainant also owns more than 100 domain names incorporating the Complainant's Trademark, and operates the website to which the domain name <payoneer.com> resolves (the "Complainant's Website"), and which forms the foundation of the Complainant's international business.

The Disputed Domain Name was registered on December 11, 2021. The Disputed Domain Name resolves to an inactive Website.

#### 5. Parties' Contentions

##### A. Complainant

The Complainant's primary contentions can be summarised as follows:

- (a) The Disputed Domain Name is confusingly similar to the Complainant's Trademark by virtue of it being identical.
- (b) The Respondent does not have any rights or legitimate interests in the Disputed Domain Name. The Complainant has never authorized or given permission to the Respondent, who is not associated with the Complainant in any way, to use the Complainant's Trademark or to register the Disputed Domain Name. There is also no evidence of the Respondent's use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name in connection with a *bona fide* offering of goods or services, nor a legitimate noncommercial or fair use of the Disputed Domain Name.
- (c) The Respondent's registration of the Disputed Domain Name which is confusingly similar to the Complainant's Trademark is in itself an act of bad faith by someone with no legal connection to the Complainant's business. The Respondent's offer to sell the Disputed Domain Name to the Complainant for an amount substantially in excess of the Respondent's conceivable out-of-pocket costs is an attempt at gaining undue profit based on the value of the Disputed Domain Name as a trademark. Therefore, given these factors, the Respondent has registered and is using the Disputed Domain Name in bad faith.

## B. Respondent

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

However, the Respondent submitted informal communications on April 13, 14 and 21, and May 13, 2022, (i) stating that the Respondent registered the Disputed Domain Name by mistake; and (ii) requesting that "Payoneer.com refund my \$2500". The communications in April contained the same message, with the communication in May stating that "I am agree to return domain but don't know whats you want to now my all emails chat are proof to return domain".

## 6. Discussion and Findings

Under paragraph 4(a) of the Policy, the Complainant is required to prove each of the following three elements:

- (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 and is being used by the Respondent in bad faith.

### A. Identical or Confusingly Similar

The Panel accepts that the Complainant has rights in the Complainant's Trademark, based on its various trademark registrations listed above in Section 4.

It is well established that in making an enquiry as to whether a trademark is identical or confusingly similar to a domain name, the generic Top-Level Domain ("gTLD") extension, ".com" in this case, may be disregarded. See section 1.11 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

The Disputed Domain Name incorporates the Complainant's Trademark in its entirety. As such, the Panel finds that the Disputed Domain Name is confusingly similar to the Complainant's Trademark, and accordingly, paragraph 4(a)(i) of the Policy is satisfied.

### B. Rights or Legitimate Interests

Once a complainant establishes a *prima facie* case in respect of the lack of rights or legitimate interests of a respondent in a disputed domain name, the respondent then carries the burden of demonstrating that it has rights or legitimate interests in the domain name. Where the respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. See section 2.1 of the [WIPO Overview 3.0](#).

The Panel accepts that the Complainant has not authorised the Respondent to use the Complainant's Trademark, and there is no relationship between the Complainant and the Respondent which would otherwise entitle the Respondent to use the Complainant's Trademark. Accordingly, the Panel is of the view that a *prima facie* case has been established by the Complainant and it is for the Respondent to show rights or legitimate interests in the Disputed Domain Name.

The Respondent did not submit a formal Response. The fact that the Respondent did not submit a formal Response does not automatically result in a decision in favour of the Complainant. However, the Panel may accept all reasonable and supported allegations and inferences flowing from the Complainant as true (see *Entertainment Shopping AG v. Nischal Soni, Sonik Technologies*, WIPO Case No. [D2009-1437](#); and *Charles Jourdan Holding AG v. AAIM*, WIPO Case No. [D2000-0403](#)).

Pursuant to paragraph 4(c) of the Policy, the Respondent may establish rights or legitimate interests in the Disputed Domain Name by demonstrating any of the following:

- (i) before any notice to the Respondent of the dispute, the Respondent's use of, or demonstrable preparations to use the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services;
- (ii) the Respondent has been commonly known by the Disputed Domain Name, even if it has acquired no trademark or service mark rights; or
- (iii) the Respondent is making a legitimate noncommercial or fair use of the Disputed Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

There is no evidence to suggest that the Respondent's use of, or demonstrable preparations to use, the Disputed Domain Name or a name corresponding to the Disputed Domain Name was in connection with a *bona fide* offering of goods or services. The Panel agrees with the Complainant that the Respondent's use of the Disputed Domain Name cannot be regarded as legitimate noncommercial or fair use as the Respondent appears to have registered the Disputed Domain Name solely for the purpose of selling the Disputed Domain Name for a sum above the out-of-pocket costs of registration.

In addition, no evidence has been provided to show that the Respondent has trademark rights corresponding to the Disputed Domain Name, or that the Respondent has been commonly known by the Disputed Domain Name.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the Disputed Domain Name and the Complainant has satisfied paragraph 4(a)(ii) of the Policy.

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

UDRP panels have consistently found that the mere registration of a domain name that is confusingly similar to a widely-known trademark by an unaffiliated entity can already by itself create a presumption of bad faith. See paragraph 3.1.4 of the [WIPO Overview 3.0](#).

A quick Internet search conducted by the Panel shows that the top search results returned for the keyword "payoneer" are the Complainant's Website and third party websites providing information relating to the Complainant's financial services. Therefore, taking this into consideration together with the fact that the Disputed Domain Name incorporates the Complainant's Trademark in its entirety, the Respondent must have been aware of the Complainant and the rights in the Complainant's Trademark when registering the Disputed Domain Name.

In addition, the Panel finds that the following facts further support a finding that the Disputed Domain Name was registered and is being used by the Respondent in bad faith:

- (i) The Respondent failed to provide any evidence of any actual or contemplated good faith use by it of the Disputed Domain Name.
- (iii) It is difficult to conceive of any plausible use of the Disputed Domain Name that would amount to good faith use, given that the Disputed Domain Name solely contains the Complainant's Trademark in its entirety.
- (iii) The Respondent attempted to sell the Disputed Domain Name to the Complainant for amounts substantially in excess of its out-of-pocket expenses in correspondence before the filing of the Complaint, and after the filing of the Complaint in its informal responses

In the circumstances, the Panel finds that the Respondent registered and has been using the Disputed Domain Name in bad faith, and paragraph 4(a)(iii) of the Policy has been satisfied.

## **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.app> be transferred to the Complainant.

*/Gabriela Kennedy/*

**Gabriela Kennedy**

Sole Panelist

Date: May 18, 2022