Decision for dispute CAC-UDRP-106696

Case number	CAC-UDRP-106696
Time of filing	2024-07-19 09:19:08
Domain names	wwwpaysend.com

Case administrator

Name	Olga Slanařová (Case admin)

Complainant

Organization	PaySend Group Limited

Complainant representative

Organization	Motsnyi Consulting (dba Motsnyi Legal)

Respondent

Name	Carolina Rodrigues

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

The Complainant is, inter alia, proprietor of the International Registration 1251936 PAYSEND of April 10, 2015 in class 35 extended to numerous countries, inter alia the US, the mark being in effect.

FACTUAL BACKGROUND

The Complainant is a global FinTech company and is developing international card-to-card transfers, allowing connections between 12 billion cards globally - Mastercard, Visa, China UnionPay and local card schemes. The Complainant is headquartered in the UK and its group companies are located in various countries, including the US and Serbia.

Since the Complainant's business started in 2017 it has launched a number of products, including "Paysend Global Transfers", "Paysend Global Account", "Paysend Connect", "Paysend Business" and "Paysend Libre".

The Complainant currently serves over seven million customers and operates in over 170 countries globally. It is one of the leaders in the area of online money transfers and received various awards including "PayTech 2018" – "Best Consumer Payments" and "FinovateSpring 2018"- Leading FinTech Product.

The disputed domain name was registered on June 28, 2024 and initially did not resolve to an active website whereas at the time of

the decision of this Panel the website resolves to a website under „ww1.wwwpaysend.com“, a parking page with commercial links to third companies.

The Respondent was also Respondent in numerous other UDRP proceedings, inter alia, CAC-UDRP-106596 - <medinfoboehringer-ingelheim.com>, CAC-UDRP-105994 - <rolexparismaster.com> and CAC-UDRP-105882 - <EONBILLING.COM> to name only a few. In these cases, the disputed domain names were transferred to the Complainant.

PARTIES CONTENTIONS

The Complainant contends that the disputed domain name is confusingly similar to the trademark PAYSEND since the mark is fully incorporated. The Complainant denies that the Respondent was authorised to use its trademarks in the disputed domain name. The Respondent was furthermore also respondent in numerous other ADR proceedings where the panels decided to transfer the domain name to the Complainant. Given the trademark of the Complainant in many territories for a long time before he disputed domain name was registered Complainant finally contends that the Respondent has registered and used the domain names with full knowledge of the Complainant's trademark.

NO ADMINISTRATIVELY COMPLIANT RESPONSE HAS BEEN FILED.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

In order to succeed in its claim, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied:

(i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and

(ii) The Respondent has no rights or legitimate interests with respect to the disputed domain name; and

(iii) The disputed domain name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Complainant has established the fact that it has valid trademark rights for “PAYSEND“.
The disputed domain name is confusingly similar to the PAYSEND mark of the Complainant since neither the top level domain nor the addition of the letters „www“, a known abbreviation for „World Wide Web“ are distinctive enough to be considered as relevant to

influence the overall impression of the domain name respectively avoid a confusing similarity, in particular, if the entire and distinctive trademark „PAYSEND“ is fully incorporated in the disputed domain name.
The Panel therefore considers the disputed domain name to be confusingly similar to the trademarks PAYSEND in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests
The Respondent has no rights or legitimate interests in the disputed domain name, since the Respondent is not a licensee of the Complainant nor has the Complainant granted any permission or consent to the Respondent to use its trademarks or designations confusingly similar to its trademarks. Furthermore, the Respondent has no rights or legitimate interests in the disputed domain name, since there is no indication that the Respondent is commonly known by the name “PAYSEND” or „WWWPAYSEND“ nor that the Respondent is using the disputed domain name in connection with a bona fide offering of goods or services.
The Panel therefore finds that the Respondent does not have rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith
In view of the activities and trademarks of the Complainant around the globe and the full incorporation of the trademark of the Complainant, the Respondent must have been aware of the Complainant and its trademark when registering the disputed domain name. The Complainant has not authorised the Respondent to make use of a designation which is highly similar to its marks. This Panel does not see any conceivable legitimate use that could be made by the Respondent of this particular disputed domain name without the Complainant’s authorization.

The circumstances of this case, in particular the advertising links to third party companies, as well as the high number of ADR Proceedings where ADR panels have decided to transfer the domain names in dispute from this Respondent to the Complainants in such cases, show a pattern of the Respondent to register and use the domain names incorporating trademarks of third parties primarily with the intention of attempting to attract, for commercial gain, internet users to its potential website or other online locations, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of such website or location, or of a product or service on such website or location. The Panel therefore considers the disputed domain name to have been registered and used in bad faith in accordance with paragraph 4(a)(iii) of the Policy.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **wwwpaysend.com**: Transferred

PANELLISTS

Name	**Dietrich Beier**

DATE OF PANEL DECISION 2024-08-13

Publish the Decision