

Decision for dispute CAC-UDRP-107429

Case number	CAC-UDRP-107429
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Time of filing	2025-03-28 10:49:20
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Domain names	pay-send.cash
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Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)
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Complainant

Organization	PaySend Group Limited
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Complainant representative

Organization	Motsnyi IP Group (dba Motsnyi Legal)
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Respondent

Name	/ Xianglu Chen
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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 owns several word and combined trade marks consisting of and incorporating the name PAYSEND, including the International word and device trade mark PAYSEND, registration number 1284999, first registered on 13 October 2015 in international classes 09 and 36; and the International word trade mark PAYSEND, registration number 1251936, first registered on 10 April 2015 in international class 36. The Complainant's trade mark registrations predate the registration of the disputed domain name.

The Complainant also owns various domain names incorporating the name PAYSEND, including the domain <paysend.com>, which is connected to the Complainant's official website through which it informs Internet users and customers about its products and services.

FACTUAL BACKGROUND

The Complainant, PaySend Group Limited, offers international card-to-card transfers, allowing connections between 12 billion cards globally - Mastercard, Visa, China UnionPay and local card schemes. Since the Complainant's business started in 2017, it has launched a number of products, including "Paysend Global Account", "Paysend Connect", "Paysend Business" and "Paysend Libre". Paysend currently serves over ten million customers and operates in over 170 countries globally. It is one of the leaders in the area of online money transfers and received a number of awards for its products and services. The Complainant is headquartered in the UK (with offices in Edinburgh and London) and its group companies are located in countries including the US, Ireland and Serbia.

The Complainant and its business have been widely covered in the media, and the Complainant has a strong social media presence which pre-dates the registration of the disputed domain name. Furthermore, the Complainant is recognised as one of the top global money transfer services by a range of independent sources.

The disputed domain name <pay-send.cash> was registered on 8 February 2025. The disputed domain name resolves to an imitation online trading website, which uses the Complainant's PAYSEND trade mark, and impersonates the Complainant and its main website at www.paysend.com. It claims inter alia to offer money transfer services to Madagascar. It also contains links to the Complainant's social media accounts, the copyright information of the Complainant, and the contact details of the Complainant's subsidiary in Ireland.

PARTIES CONTENTIONS

The Complainant contends that all three elements of the Policy have been met and it therefore requests the transfer of the disputed domain name to the Complainant.

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 trade mark 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 notes that the Complainant's authorised representative, Igor Motsnyi, is also a UDRP domain name panellist at the ADR Center of the Czech Arbitration Court. Since there is no close personal or financial relationship between the Panel and the Complainant's authorised representative, and they have not previously acted as joint panellists in any UDRP proceeding, the Panel considers the present case to fall within the "green list" of the IBA Guidelines on Conflicts of Interest in International Arbitration and not therefore to give rise to a conflict of Interest on the part of the Panel.

The Panel is satisfied that all other 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

With regard to the first UDRP element, the Panel finds that the disputed domain name is identical to the Complainant's trade mark PAYSEND. Indeed, the disputed domain name incorporates the Complainant's trade mark in its entirety but inserts a hyphen between the words "Pay" and "Send" in the Complainant's trade mark. The Panel follows in this respect the view established by numerous other decisions that a domain name which wholly incorporates a Complainant's registered trade mark may be sufficient to establish confusing similarity for the purposes of the UDRP (see, for example, WIPO Case No. D2003-0888, Dr. Ing. h.c. F. Porsche AG v. Vasilii Terkin <porsche-autoparts.com>). The Panel further considers it to be well established that the addition of a hyphen does not change the overall impression of the disputed domain name and does not allow the disputed domain name to avoid confusing similarity with the Complainant's trade mark (see, for example, Forum Case No. FA2502002141540, SidePrize, LLC d/b/a PrizePicks v. Jon Edelman / Ideas 4 Now <prize-picks.com>: "The Panel finds Respondent's <prize-picks.com> domain name to be virtually identical and confusingly similar to Complainant's PRIZEPICKS mark, only differing by the insertion of the hyphen, which is insufficient to distinguish the domain name from Complainant's mark"; and WIPO Case No. D2024-4116, RockAuto LLC v. Zhen XingLei <rock-auto.parts>: "The disputed domain name fully incorporates that mark, with the insertion of a hyphen, and the generic Top-Level Domain ("gTLD")

“parts”...”). Furthermore, other panels have previously found that “[W]here the relevant trademark is recognizable within the Disputed Domain Name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element” (see WIPO Overview 3.0, section 1.8; and, for example, WIPO Case No. D2023-2542, Merryvale Limited v. tao tao <wwbetway.com>; and WIPO Case No. D2020-0528, Philip Morris Products S.A. v. Rich Ardea <global-iqos.com>). Against this background, the Panel finds that the insertion of the hyphen in the disputed domain name is not sufficient to alter the overall impression of the designation as being connected with the Complainant’s trade mark and does not prevent a likelihood of confusion between the disputed domain name and the Complainant, its trade mark and associated domain names. To the contrary, the disputed domain name rather adds to the likelihood of confusion because the addition in the disputed domain name of the <.cash> TLD to the Complainant’s trade mark PAYSEND, suggests that the disputed domain name links to an official website of the Complainant, and reinforces the implication that it is linked to the Complainant and its main business activity, namely, money transfers. While the content of the website is usually disregarded for the first element analysis, UDRP panels have taken note of the content of the website to confirm confusing similarity whereby it appears prima facie that the respondent seeks to target a trade mark through the disputed domain name (see WIPO Overview 3.0, section 1.15). The Panel accepts the Complainant’s submission that the content of the website clearly demonstrates targeting, impersonation and passing off and increases the risk of confusion.

With regard to the second UDRP element, the Panel notes that the disputed domain name resolves to a website impersonating the Complainant’s official website, and using the Complainant’s trade mark and some of its web content. The website also includes a money transfer functionality by reference to the Complainant’s trade mark. The Panel notes that the website accessed through the disputed domain name carries a high risk of affiliation with the Complainant, suggesting that it is either the Complainant’s own website, or is at least endorsed by the Complainant, where this is not the case. The Panel accepts the Complainant’s submissions that the Respondent is not affiliated with or related to the Complainant in any way, and is neither licensed nor otherwise authorised to make any use of the Complainant’s trade mark, or to apply for or use the disputed domain name. Furthermore, other panels have categorically held that the use of a domain name for illegal activity (including for impersonation, passing off, or other types of fraud) can never confer rights or legitimate interests on a respondent (see WIPO Overview 3.0, section 2.13.1). In two recent disputes involving the Complainant in similar circumstances (the disputed domain name was used for impersonation) the panel in CAC Case No. 106558, PaySend Group Limited v. Tronx Ltd <paysend.cc> noted that: “The use of the disputed domain name featured a series of untrue claims that it was either closely associated with the Complainant, or was the Complainant, in order to offer either genuine or fraudulent services related to money transfers. Masquerading as the Complainant in this manner cannot amount to a bona fide offering of goods and services”; and the panel in CAC Case No. 107208, PaySend Group Limited v. Dmytro Dudchenko <ipaysend.com> stated: “Further, the evidence submitted by the Complainant that the Respondent has sought fraudulently to impersonate the Complainant at the website at the disputed domain name and has provided false information on the website is inconsistent with the Respondent having rights or legitimate interests in the disputed domain name”. In these circumstances, the Panel accepts that the website accessed through the disputed domain name takes unfair advantage of the Complainant’s trade mark for the purpose of redirecting traffic to that website for commercial gain, and also for the purpose of misleading Internet users because it seeks to impersonate the Complainant. The Panel therefore concludes that the website to which the disputed domain name resolves does not constitute a bona fide offering of goods or services. Furthermore, the Whois information does not suggest that the Respondent is commonly known by the disputed domain name <pay-send.cash>. Past panels have held that a respondent was not commonly known by a disputed domain name if the Whois information was not similar to the disputed domain name, as is equally not the case here (see, for example, Forum Case No. FA 1781783, Skechers U.S.A., Inc. and Skechers U.S.A., Inc. II v. Chad Moston / Elite Media Group <bobsfromsketchers.com> (“Here, the WHOIS information of record identifies Respondent as “Chad Moston / Elite Media Group.” The Panel therefore finds under Policy ¶ 4(c)(ii) that Respondent is not commonly known by the disputed domain name under Policy ¶ 4(c)(ii).”). Neither is there any indication that the Respondent is making any legitimate non-commercial or fair use of the disputed domain name. Against this background, and absent any response from the Respondent, or any other information indicating the contrary, the Panel concludes that the Respondent has no rights or legitimate interest in the disputed domain name.

With regard to the third UDRP element, it is reasonable to infer that the Respondent either knew, or should have known, that the disputed domain name would be confusingly similar to the Complainant’s trade mark, and that he registered the disputed domain name in full knowledge of the Complainant’s trade mark. The content of the website accessed through the disputed domain name clearly demonstrates the Respondent’s knowledge and targeting of the Complainant and its trade marks and websites, and of its connected business, products and services, as well as the Respondent’s intent to take unfair advantage of the Complainant’s marks. Indeed, it is likely that the disputed domain would not have been registered if it were not for the Complainant’s trade mark (see, for example, WIPO Case No D2004-0673 Ferrari Spa -v- American Entertainment Group Inc). The Panel notes that the Respondent seeks to attract Internet users to his own website for commercial gain, based on the Complainant’s trade mark, which constitutes further evidence of bad faith (see, for example, WIPO Case No D2018-0497, StudioCanal v. Registration Private, Domains By Proxy, LLC / Sudjam Admin, Sudjam LLC (“In that circumstance, whether the commercial gain from misled Internet users is gained by the Respondent or by the Registrar (or by another third party), it remains that the Respondent controls and cannot (absent some special circumstance) disclaim responsibility for, the content appearing on the website to which the disputed domain name resolve [...] so the Panel presumes that the Respondent has allowed the disputed domain name to be used with the intent to attract Internet users for commercial gain, by creating a likelihood of confusion with the Complainant’s trademark as to the source, affiliation, or endorsement of the Respondent’s website to which the disputed domain name resolves. Accordingly, the Panel finds that the disputed domain name was registered and is being used in bad faith.”)). Absent any response from the Respondent, or any other information indicating the contrary, the Panel therefore also accepts that the Respondent has registered and is using the disputed domain name in bad faith.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

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

1. **pay-send.cash**: Transferred

PANELLISTS

Name	Gregor Kleinknecht LLM MCIArb
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DATE OF PANEL DECISION	2025-05-06
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Publish the Decision