

ADMINISTRATIVE PANEL DECISION

Early Warning Services, LLC v. Zelle Pay, Box; Zelle Business; Zelle Pay, Zelle Pay; William Walters, zelle Pay; eugene miller, Pay; Gary Allen, zelle Pay; Zelle Pay; Victor Osunwa; Zelle Pay, Zelle; Ivan, ICHIBANSOFT INC.; carlos mendez, zellemoneytransfer; Medi Sarre, sarre; Zelle Pay, usa bank; Zelle.com, Zelle; zelle pay, zellepayintl.com; Reply zellepay, Zelle Support; Zelle Pay, Payment; ibrahim abdullahi; Zelle Pay, zelleserviceints.com; BRIGHT EKWERE; james short, Zelle; Zelle Payment; Zelle Pay Support, Zelle Support Team; Schwab Priscilla, Business; Wrld Moon
Case No. D2023-2170

1. The Parties

The Complainant is Early Warning Services, LLC, United States of America (“U.S.”), represented by Bryan Cave Leighton Paisner LLP, U.S.

The Respondents are Zelle Pay, Box, Nigeria; Zelle Business, U.S.; Zelle Pay, Zelle Pay, U.S. and Nigeria respectively; William Walters, zelle Pay, U.S.; eugene miller, Pay, U.S.; Gary Allen, zelle Pay, U.S.; Zelle Pay, U.S. and Nigeria respectively; Victor Osunwa, U.S.; Zelle Pay, Zelle, Canada, Nigeria, and U.S. respectively; Ivan, ICHIBANSOFT INC., U.S.; carlos mendez, zellemoneytransfer, Dominican Republic; Medi Sarre, sarre, U.S.; Zelle Pay, usa bank, U.S.; Zelle.com, Zelle, Nigeria; zelle pay, zellepayintl.com, U.S.; Reply zellepay, Zelle Support, U.S.; Zelle Pay, Payment, Nigeria; ibrahim abdullahi, Nigeria; Zelle Pay, zelleserviceints.com, U.S.; BRIGHT EKWERE, Nigeria; james short, Zelle, U.S.; Zelle Payment, Nigeria; Zelle Pay Support, Zelle Support Team, U.S.; Schwab Priscilla, Business, U.S.; Wrld Moon, U.S.

2. The Domain Names and Registrar

The disputed domain names <zelleappconfirmation.com>, <zellebusiness.xyz>, <zelleconfirmation.app>, <zelle-funding.com>, <zelle-fundings.app>, <zelle-funds.app>, <zellehelpcenter.com>, <zellehelpcentre.net>, <zelleinformation.com>, <zellelogin.icu>, <zellemailservice.com>, <zelleme.money>, <zellemoneytransfer.info>, <zelleonlinedesk.com>, <zelleonlinepaymentservices.com>, <zelleonlineservice.com>, <zelleonlinesupport.com>, <zellepayemails.com>, <zellepaygoodsservices.com>, <zellepayhelp.net>, <zellepayingapp.com>, <zellepaylog.com>, <zellepayment-mail.com>, <zellepaymenttransferservices.com>, <zellepaymentsafety.com>, <zellepaymentservice.net>, <zellepayonlineserviceunit.com>, <zellepayreferencesupports.net>, <zellepayreplyintls.com>, <zellepayservicehelp.com>, <zellepaytech.net>, <zellepaytransferunitservice.com>, <zellepayverification.com>, <zelle-pay1.com>, <zellequikpay.com>, <zellesafe.company>, <zellesafe.xyz>, <zelleservicefee.com>, <zelleserviceint.com>, <zelleserviceints.com>, <zelleservice-mail.com>.

<zelleservicenotifications.com>, <zelle-support.app>, <zellesupportline.com>, <zellesupportteam.org>, <zelletradingsupport.com>, <zelleupgrade.com>, <zelleupgrade.net> and <zelleuse.com> are all registered with Google LLC (the “Registrar”). Each of these disputed domain names is referred to in this decision as a “Disputed Domain Name” and collectively they are referred to as the “Disputed Domain Names”.

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on May 16, 2023. On May 17, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Names. On May 18, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Disputed Domain Names which differed from the named Respondent (Contact Privacy Inc. Customer 7151571251) and contact information in the Complaint.

The Center sent an email communication to the Complainant on June 30, 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 July 5, 2023. On June 30, 2023, the Center sent another email communication to the Parties in English and Spanish regarding the language of the proceeding. On the same day, the Complainant submitted a request that English be the language of the proceeding. The Respondents did not comment on the language of the proceeding.

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 Respondents of the Complaint, and the proceedings commenced on July 12, 2023. In accordance with the Rules, paragraph 5, the due date for Response was August 1, 2023. The Respondents did not submit any formal response. On July 17 and July 18, 2023 respectively, the Center received two email communications from two third parties following their receipt of the Written Notice and indicating that they have nothing to do with the concerned Disputed Domain Names. Accordingly, the Center notified the Commencement of Panel Appointment Process on August 7, 2023.

The Center appointed Nick J. Gardner as the sole panelist in this matter on August 9, 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 is Early Warning Services, LLC, a U.S. company operating a digital payment network which is provided under the brand name ZELLE. The Complainant’s services target a wide consumer base, and more than 1,800 financial institutions worldwide currently use such services. Some of the world’s largest banks offer the ZELLE services to their customers, including nearly all the largest consumer banking institutions in the U.S., such as Bank of America, U.S. Bank, Citi, Ally Bank, HSBC, and Wells Fargo. In fiscal year 2022, the ZELLE services processed 2.3 billion transactions totaling USD 629 billion in payments.

The Complainant owns several trademark registrations for ZELLE and ZELLEPAY, including for example U.S. Trademark Registration No. 5,277,307 for ZELLE, registered on August 29, 2017; and U.S. Trademark Registration No. 5,938,276 for ZELLEPAY, registered on December 17, 2019. These trademarks are respectively referred to in this decision as the “ZELLE trademark” and the “ZELLEPAY trademark”. The Complainant’s principal websites are linked to the domain names <zelle.com> and <zellepay.com>. There is no evidence of anyone apart from the Complainant using the term “zelle” in business.

The Disputed Domain Names all were registered in November or December, 2022 with the same Registrar, using the same privacy service, and all presently resolve to inactive pages.

5. Parties' Contentions

A. Complainant

The Complainant says that the Disputed Domain Names are confusingly similar to its trademarks ZELLE and/or ZELLEPAY, as they wholly incorporate the Complainant's trademarks ZELLE and/or ZELLEPAY, and simply add descriptive terms such as "pay", "business", "funding", "support", "service", "payment", "money", or "online".

The Complainant argues that the Disputed Domain Names are under common control and thus addresses the Respondents in the singular in the Complaint (see further below). The Complainant asserts that the Respondents have no rights or legitimate interests in respect of the Disputed Domain Names since they have not been authorized by the Complainant to register the Disputed Domain Names or to use its trademarks within the Disputed Domain Names, they are not commonly known by the Disputed Domain Names and they are not making either a *bona fide* offering of goods or services or a legitimate noncommercial or fair use of the Disputed Domain Names.

The Complainant says the Respondents are serial cybersquatters who have previously been ordered to transfer to the Complainant 46 similar domain names incorporating these same marks. See *Early Warning Services, LLC v. Zelle Support; Zellepay Info, Zellepay; Secured payment, Secured payment; ZELLE PAY; Mirandez Chocho, Zelle; ZELLE PAY, ZELLE PAY; Zelle Online, Zelle; Zelle Support, Zelle; Zelle Support; Zelle Pay, Zelle pay; Zelle Support, Zelle; Zelle Pay, Zelle; Zelle Pay, Zelle; Zelle Pay, Zelle; Olanrewaju Lawrence, Zelle pay; Zelle Pay, Zellebusinesspay.com; Zelle Pay, Online Banking; Zelle Pay, Zelle®; Zelle Pay, Zelle pay; Zelle Team, Zelle; Zelle Pay, Zellebusinesspay.com; Zelle Pay, Zelle pay port; zelle Pay, Zelle Pay; Zelle Payment, Zellepaymentreview; Time Nodey, Proke; BRET LAFELLETTE; and Customer Service, Customer service*, WIPO Case No. [D2022-4480](#). The Complainant also says there are many more such domain names that the Respondents have registered. The Complainant submits that the Respondents have registered the disputed domain names in bad faith, since the Complainant's trademarks ZELLE and ZELLEPAY are distinctive and well known in the field of digital payment. Therefore, the Respondents targeted the Complainant's trademarks at the time of registration of the Disputed Domain Names and the Complainant argues that the passive holding of the Disputed Domain Names amounts to bad faith registration and use. It also says that the Disputed Domain Names are plainly designed to trade on the reputation and goodwill of the Complainant and its ZELLE and ZELLEPAY trademarks for financial gain. It says the Respondents utilize the Disputed Domain Names to divert potential users (a) away from the Complainant's primary websites at the domain names <zelle.com> and <zellepay.com>, (b) away from the Complainant's authentic ZELLE branded services, and (c) toward the Respondents' websites.

B. Respondents

Apart from the third parties emails mentioned under the section 3. above, the Respondents did not reply to the Complainant's contentions.

6. Discussion and Findings

Preliminary Issue – Consolidation of Multiple Respondents

The Complainant has requested consolidation of multiple Respondents and stated that all the Disputed Domain Names belong to the same person or organization or at least are under common control.

In this regard see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.11.2, “[w]here a complaint is filed against multiple respondents, panels look at whether (i) the domain names or corresponding websites are subject to common control, and (ii) the consolidation would be fair and equitable to all parties. Procedural efficiency would also underpin panel consideration of such a consolidation scenario”. The Panel may consider a range of factors to determine whether consolidation is appropriate, such as examining relevant registrant contact information, and any naming patterns in the disputed domain names, or other evidence of respondent affiliation that indicate common control of the disputed domain names.

The Panel notes that all the Disputed Domain Names have the same privacy service unique “customer identification number” as registrant contact information, they have been all registered with the same Registrar in the same short period of time, namely in November or December, 2022, and they are all inactive. Further, the Panel notes that among the registrant information disclosed, many of the registrants’ contact information includes the Complainant’s trademark within their name or organization, and follow a broadly similar naming pattern by combining the Complainant’s trademark with non-distinctive dictionary words. Further, the Respondents also appear to have used postal addresses of third parties to register at least two of the Disputed Domain Names. Given all of these factors the Panel finds that it is more likely than not that the Disputed Domain Names are subject to common control, and that it would be procedurally efficient, fair, and equitable to all Parties to accept the Complainant’s consolidation request. The Panel further notes that the Respondents did not object to the consolidation request. The Panel therefore accepts the Complainant’s consolidation request. Hereinafter, the Panel will refer to the Respondents in the singular, *i.e.*, “the Respondent”.

Preliminary Matters – Language of the Proceeding

The language of the Registration Agreement for the Disputed Domain Name <zellemoneytransfer.info> is Spanish while the language of the Registration Agreements for the remaining Disputed Domain Names is English. Paragraph 11(a) of the Rules provides as follows: “Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding”. The Complainant submitted a request that English be the language of the proceeding, however, the Respondent did not comment on this matter despite the fact that the Center sent the language of the proceeding email in both English and Spanish. The Panel further notes that the Center notified the Respondent of the commencement of the proceeding in both English and Spanish, and indicated that the Respondent could file a Response in either English or Spanish but none was filed. Moreover, the Disputed Domain Names include many dictionary words in English. In the circumstances, the Panel finds that the language of the proceeding should be in English, and finds that such determination would be fair to both Parties.

A. Identical or Confusingly Similar

The Panel finds that the Complainant is the owner of the registered trademarks ZELLE and ZELLEPAY and that the Disputed Domain Names are each confusingly similar to the trademarks ZELLE and/or ZELLEPAY.

In each of the Disputed Domain Names one of the Complainant’s trademarks is combined with an additional term or additional terms (*e.g.*, “help”, “log”, “servicehelp”, “tech”, “safe”, “use”, “upgrade” and so on).

Previous UDRP panels have consistently held that domain names are identical or confusingly similar to a trademark for purposes of the Policy “when the domain name includes the trademark, or a confusingly similar approximation, regardless of the other terms in the domain name” (*Wal-Mart Stores, Inc. v. Richard MacLeod d/b/a For Sale*, WIPO Case No. [D2000-0662](#)). It is established that, where a mark is recognizable in a disputed domain name, the disputed domain name is considered to be confusingly similar to the registered mark.

It is also established that the addition of other term(s) (such as those identified above and the other terms used by the Respondent) to a disputed domain name has little, if any, effect on a determination of confusing similarity between the domain name and the mark (*Quixtar Investments, Inc. v. Dennis Hoffman*, WIPO Case No. [D2000-0253](#)); furthermore, the mere addition of such term(s) does not prevent a finding of confusing similarity under the first element (*PRL USA Holdings, Inc. v. Spiral Matrix*, WIPO Case No. [D2006-0189](#)).

It is also well established that the generic Top-Level Domain (“gTLD”), in this case “.com”, “.org”, “.net”, “.xyz”, “.app”, “.info”, “.money”, “.company”, and “.icu”, does not affect the Disputed Domain Name for the purpose of determining whether it is identical or confusingly similar. See, for example, *Rollerblade, Inc. v. Chris McCrady*, WIPO Case No. [D2000-0429](#).

Accordingly, the Panel finds that each of the Disputed Domain Names is confusingly similar to the Complainant’s trademark and hence the first condition of paragraph 4(a) of the Policy has been fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(a)(ii) of the Policy requires the Complainant to prove that the Respondent has no rights or legitimate interests in the Disputed Domain Names.

The Respondent may establish rights or legitimate interests in the Disputed Domain Names by demonstrating in accordance with paragraph 4(c) of the Policy any of the following circumstances, in particular but without limitation:

“(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain names or a name corresponding to the domain names in connection with a bona fide offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain names, even if you have acquired no trademark or service mark rights; or

(iii) you are making a legitimate noncommercial or fair use of the domain names, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.”

None of these apply in the present circumstances. The Complainant has not authorised, licensed, or permitted the Respondent to register or use the Disputed Domain Names or to use the ZELLE or ZELLEPAY trademarks. The Complainant has prior rights in the ZELLE and ZELLEPAY trademarks, which precede the Respondent’s acquisition of the Disputed Domain Names. The Complainant has therefore established a *prima facie* case that the Respondent does not have any rights or legitimate interests in the Disputed Domain Names, and thereby the burden of production shifts to the Respondent to produce relevant evidence demonstrating rights or legitimate interests in respect of the Disputed Domain Names (see, for example, *Do The Hustle, LLC v. Tropic Web*, WIPO Case No. [D2000-0624](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#)).

The Panel finds that the Respondent has failed to produce any evidence to establish its rights or legitimate interests in the Disputed Domain Names. Accordingly, the Panel finds the Respondent has no rights or any legitimate interests in the Disputed Domain Names and the second condition of paragraph 4(a) of the Policy has been fulfilled.

C. Registered and Used in Bad Faith

Under paragraph 4(b) of the Policy a non-exhaustive list of factors evidencing registration and use in bad faith comprises:

(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the

complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or

- (ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or
- (iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or
- (iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.

In the present circumstances, it is quite clear that the Respondent must have had the Complainant's ZELLE and ZELLEPAY trademarks in mind when it registered the Disputed Domain Names. It is inconceivable that it could have registered such large number of domain names in combination with dictionary terms many of which are directly relevant to payment services for any other reason. It also seems more likely than not that the Respondent is the same person or entity as was the respondent in *Early Warning Services, LLC v. Zelle Support; Zellepay Info, Zellepay; Secured payment, Secured payment; ZELLE PAY; Mirandez Chocho, Zelle; ZELLE PAY, ZELLE PAY; Zelle Online, Zelle; Zelle Support, Zelle; Zelle Support; Zelle Pay, Zelle pay; Zelle Support, Zelle; Zelle Pay, Zelle; Zelle Pay, Zelle; Zelle Pay, Zelle; Zelle Pay, Zelle; Olanrewaju Lawrence, Zelle pay; Zelle Pay, Zellebusinesspay.com; Zelle Pay, Online Banking; Zelle Pay, Zelle®; Zelle Pay, Zelle pay; Zelle Team, Zelle; Zelle Pay, Zellebusinesspay.com; Zelle Pay, Zelle pay port; zelle Pay, Zelle Pay; Zelle Payment, Zellepaymentreview; Time Nodey, Proke; BRET LAFELLETTE; and Customer Service, Customer service*, WIPO Case No. [D2022-4480](#) given the similarities between the facts in that case and the present case. The reasoning of the panel in that case is equally applicable to the present case.

Overall it does not generally matter that the Respondent has not as yet used the Disputed Domain Names. "Passive holding" can itself amount to bad faith registration and use where the holding involves a domain name deliberately chosen because of its association with the Complainant. See *Telstra Corporation Limited v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#), *Jupiters Limited v. Aaron Hall*, WIPO Case No. [D2000-0574](#), *Ladbroke Group Plc v. Sonoma International LDC*, WIPO Case No. [D2002-0131](#), *Westdev Limited v. Private Data*, WIPO Case No. [D2007-1903](#), *Malayan Banking Berhad v. Beauty, Success & Truth International*, WIPO Case No. [D2008-1393](#), *Intel Corporation v. The Pentium Group*, WIPO Case No. [D2009-0273](#), *Advance Magazine Publishers Inc. and Les Publications Conde Nast S.A. v. ChinaVogue.com*, WIPO Case No. [D2005-0615](#).

Further, the Panel notes the Respondent has not provided any credible explanation for any case of good faith use it may have. The Panel infers that none exists.

The Panel is not sure that the evidence supports the Complainant's argument that the Respondent utilizes the Disputed Domain Names to divert potential users (a) away from the Complainant's primary websites at the domain names <zelle.com> and <zellepay.com>, (b) away from the Complainant's authentic ZELLE branded services, and (c) toward the Respondent's websites. There is no evidence of the Respondent actually using the Disputed Domain Names or of such diversion having occurred. However, this does not matter – the Panel cannot conceive of any legitimate use the Respondent could make of the Disputed Domain Names, which incorporate the Complainant's widely-known ZELLE and ZELLEPAY trademarks together with the terms related to the Complainant's nature of business, and the Panel's reasoning above suffices to establish that the Disputed Domain Names have each been registered and are being used in bad faith.

Accordingly, and applying the principles in the above noted UDRP decisions, the Panel finds that the Disputed Domain Names have each been registered and are being used in bad faith and the third condition of paragraph 4(a) of the Policy has been fulfilled.

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 names <zelleappconfirmation.com>, <zellebusiness.xyz>, <zelleconfirmation.app>, <zelle-funding.com>, <zelle-fundings.app>, <zelle-funds.app>, <zellehelpcenter.com>, <zellehelpcentre.net>, <zelleinformation.com>, <zellelogin.icu>, <zellemailservice.com>, <zelleme.money>, <zellemoneytransfer.info>, <zelleonlinedesk.com>, <zelleonlinepaymentservices.com>, <zelleonlineservice.com>, <zelleonlinesupport.com>, <zellepayemails.com>, <zellepaygoodsservices.com>, <zellepayhelp.net>, <zellepayingapp.com>, <zellepaylog.com>, <zellepaymentemail.com>, <zellepaymenttransferservices.com>, <zellepaymentsafety.com>, <zellepaymentservice.net>, <zellepayonlineserviceunit.com>, <zellepayreferencesupports.net>, <zellepayreplyintl.com>, <zellepayservicehelp.com>, <zellepaytech.net>, <zellepaytransferunitservice.com>, <zellepayverification.com>, <zelle-pay1.com>, <zellequikpay.com>, <zellesafe.company>, <zellesafe.xyz>, <zelleservicefee.com>, <zelleserviceint.com>, <zelleserviceints.com>, <zelleservice-mail.com>, <zelleservicenotifications.com>, <zelle-support.app>, <zellesupportline.com>, <zellesupportteam.org>, <zelletradingsupport.com>, <zelleupgrade.com>, <zelleupgrade.net>, and <zelleuse.com> be transferred to the Complainant.

/Nick J. Gardner/

Nick J. Gardner

Sole Panelist

Date: August 23, 2023