

ADMINISTRATIVE PANEL DECISION

FreedomPay, Inc. v. Alexandr Trapezin, PayBox.Money LLP
Case No. D2024-0696

1. The Parties

The Complainant is FreedomPay, Inc., United States of America (“United States”), represented by Cantor Colburn LLP, United States.

The Respondent is Alexandr Trapezin, PayBox.Money LLP, Kazakhstan.

2. The Domain Name and Registrar

The disputed domain name <freedompay.money> is registered with Amazon Registrar, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 14, 2024. On February 15, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 16, 2024, 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/ On behalf of freedompay.money owner, Identity Protection Service) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 27, 2024, 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 March 1, 2024.

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 March 4, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 24, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 26, 2024.

The Center appointed Ganna Prokhorova as the sole panelist in this matter on April 3, 2024. 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 United States based company incorporated in 2000 with its headquarters in Philadelphia, and offices in Las Vegas, United States, and London, United Kingdom. The Complainant has been a pioneer in electronic commerce, including mobile payments, cashless solutions, virtual and remote terminals, payment processing, intelligent analysis, routing of promotions, incentives, and customer relationship management services.

The commerce platform under FREEDOMPAY trademark supports hundreds of thousands of sites across corporate dining, universities, and stadiums, and supports many major sporting events, including the 2016-2018 and 2023 Super Bowls. The Complainant's Commerce Platform is found in more than 100 airports worldwide, and all major hubs in the United States.

The Complainant holds the United States Registration No. 5291903 for the trademark FREEDOMPAY, which was registered on September 19, 2017 (with the application filed on January 29, 2016). This registration covers a range of goods and services across classes 9, 35, and 36. Notably, for class 36 services (specifically, electronic commerce payment services), the registration includes a claim of first use in commerce dated November 22, 2006.

The Complainant operates a website under the domain name <freedompay.com>, registered on June 4, 1999.

The disputed domain name was registered on March 1, 2022, and resolves to a website in Russian promoting payment solutions for online business across the globe under the name "Freedom Pay".

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that:

(1) The disputed domain name is confusingly similar to the Complainant's registered FREEDOMPAY trademark. The disputed domain name wholly incorporates the Complainant's well-known FREEDOMPAY trademark in its entirety as the distinctive and dominant portion. The disputed domain name merely adds the non-distinctive and highly descriptive term "money" as the Top-Level Domain ("TLD"). The disputed domain name as a whole conveys a confusing impression of the Complainant's trademark.

(2) The Respondent lacks any rights or legitimate interests in the disputed domain name. There are no prior rights held by the Respondent in the disputed domain name, nor any relationship with the Complainant granting any license, permission, or authorization for its use. The Respondent is not commonly known by the disputed domain name. The use of the disputed domain name misleads consumers into believing it is an official FREEDOMPAY website, deceiving prospective customers into thinking the individuals associated with it are legitimate affiliates of the Complainant.

(3) The Respondent registered and is using the disputed domain name in bad faith. By incorporating the entirety of the Complainant's FREEDOMPAY trademark into the disputed domain name, along with the descriptive term "money," the Respondent aimed to disrupt the Complainant's business and/or attract Internet users to its website. This intentional choice indicates the Respondent's awareness of the Complainant's marks and their significance in the market. The website associated with the disputed domain name creates a false impression of being officially authorized, sponsored, affiliated with, or endorsed by the Complainant, thus misleading users. The Respondent is intentionally attempting to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with Complainant's FREEDOMPAY marks in bad faith.

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 burden for the Complainant under paragraph 4(a) of the Policy is to prove that:

- (i) the disputed domain name registered by the Respondent is identical or confusingly similar to a trademark in which the Complainant has rights; and
- (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 in bad faith.

The Respondent had 20 days to submit a response in accordance with paragraph 5(a) of the Rules and failed to do so. Paragraph 5(f) of the Rules establishes that if a respondent does not respond to the Complaint, the Panel's decision shall be based upon the Complaint.

However, even if the Respondent has not replied to the Complainant's contentions, the Complainant still bears the burden of proving that all these requirements are fulfilled. Concerning the uncontested information provided by the Complainant, the Panel may, where relevant, accept the provided reasonable factual allegations in the Complaint as true. See section 4.3 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (["WIPO Overview 3.0"](#)).

It is further noted that the Panel has taken note of the [WIPO Overview 3.0](#) and, where appropriate, will decide consistent with the consensus views captured therein.

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. The standing (or threshold) test for confusing similarity involves a reasoned but relatively straightforward comparison between the Complainant's trademark and the disputed domain name. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of its FREEDOMPAY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

It is well accepted by UDRP panels that the addition of the TLDs, such as ".money", is typically ignored when assessing whether a domain name is identical or confusingly similar to a trademark. [WIPO Overview 3.0](#), section 1.11.1.

Based on the available record, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although the overall burden of proof in UDRP proceedings is on the complainant, panels have recognized that proving a respondent lacks rights or legitimate interests in a domain name may result in the difficult task of “proving a negative”, requiring information that is often primarily within the knowledge or control of the respondent. As such, where a complainant makes out a prima facie case that the respondent lacks rights or legitimate interests, the burden of production on this element shifts to the respondent to come forward with relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant’s prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The Panel notes that the Respondent is not affiliated with the Complainant in any way, nor has he been authorized by the Complainant to use and register its trademarks, or to seek registration of any domain name incorporating the Complainant’s trademark. Additionally, the Complainant has contended that the Respondent possesses no prior rights or legitimate interests in the disputed domain name, a claim which the Respondent has failed to refute.

Furthermore, according to the case file, the Panel notes that the Respondent is not commonly known by the disputed domain name, whereas the Complainant has prior rights in the trademarks, which precede the Respondent’s registration of the disputed domain name by years.

Based on the available record, the Panel finds that the Complainant has established the second element of the Policy.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

In the present case, the Complainant asserts that the Respondent registered the disputed domain name fully aware of the Complainant’s trademarks. The Respondent has not disputed this claim, provided incomplete contact information. The Complainant holds valid trademark rights for FREEDOMPAY, and the disputed domain name is identical to this trademark. Given the notoriety of the FREEDOMPAY trademark and its inclusion in the disputed domain name, along with the term “money” associated with the Complainant’s business, it is highly likely that the Respondent knew of the Complainant’s trademark and its significance in the market when registering the disputed domain name.

Accordingly, without any evidence to the contrary from the Respondent, the Panel infers that the Respondent was aware of the Complainant at the time it registered the disputed domain name. Moreover, the Respondent has used the disputed domain name identical to the Complainant’s trademark for offering the same services as those offered by the Complainant.

The Respondent has not participated in these proceedings and has failed to rebut the Complainant's contentions.

Based on the available record, the Panel finds that the Complainant has established the third element of the Policy.

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 <freedompay.money> be transferred to the Complainant.

/Ganna Prokhorova/

Ganna Prokhorova

Sole Panelist

Date: April 9, 2024