

ADMINISTRATIVE PANEL DECISION

Payoneer, Inc v. Yin Jun (尹军)

Case No. D2022-0517

1. The Parties

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

Respondent is Yin Jun (尹军), China.

2. The Domain Names and Registrars

The disputed domain name <payoneer.top> is registered with DNSPod, Inc., and the disputed domain name <payoneer.vip> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (collectively, the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on February 14, 2022. On February 15, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On February 16, 2022 and February 21, 2022, respectively, 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 and contact information in the Complaint. The Center sent an email communication to Complainant on February 21, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. On the same day, the Center transmitted another email communication to the Parties in English and Chinese regarding the language of the proceeding. Complainant filed an amended Complaint in English on February 23, 2022, also confirming its request that English be the language of the proceeding. Respondent 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 Respondent of the Complaint, and the proceedings commenced on March 1, 2022. In accordance with the Rules, paragraph 5, the due

date for Response was March 21, 2022. Respondent did not submit any response. Accordingly, the Center notified Respondent's default on March 24, 2022.

The Center appointed Yijun Tian as the sole panelist in this matter on April 13, 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

A. Complainant

Complainant, Payoneer, Inc., is a company incorporated in the U.S. It is a financial services company that specialises in online money transfer and digital payment services. Founded in 2005, Complainant now has more than 1,500 employees across more than 20 global offices. It processes cross-border payments in over 200 countries and territories and serves more than five million customers in more than 35 languages.

Complainant has exclusive rights in PAYONEER, and PAYONEER related marks (hereinafter "PAYONEER marks"). Complainant is the owner of numerous PAYONEER marks worldwide, including a U.S. trademark registration for PAYONEER registered on February 12, 2008 (the U.S. trademark registration number 3380029); an Australian trademark registration for PAYONEER registered on May 9, 2016 (the Australian trademark registration number 1784751); and an International trademark registration for PAYONEER registered on May 9, 2016 (the International trademark registration number 1303506).

B. Respondent

Respondent is Yin Jun (尹军), China. The disputed domain names <payoneer.top> and <payoneer.vip> were registered on August 28, 2021 and August 11, 2021, respectively, long after the PAYONEER marks were registered. The disputed domain names currently resolve to websites, which comprise pay-per-click ("PPC") advertising links to competing sites and services, and present content indicating that they are each available to purchase for USD 800 (Annex 10 to the Complaint).

5. Parties' Contentions

A. Complainant

Complainant contends that the disputed domain names are identical to the PAYONEER trademark, and the Panel should disregard the generic Top-Level Domain (gTLD) ".top" and ".vip" extensions, as these reflect a standard registration requirement.

Complainant contends that Respondent lacks rights or legitimate interests in the disputed domain names.

Complainant contends that Respondent has registered and is using the disputed domain names in bad faith.

Complainant also contends that Respondent has engaged in a pattern of abusive conduct by registering other domain names, which encompass the exact or confusingly similar variations of well-known third-party brands.

Complainant requests that the disputed domain names be transferred to Complainant.

B. Respondent

Respondent did not reply to Complainant's contentions.

6. Discussion and Findings

6.1. Language of the Proceeding

The language of the Registration Agreement for the disputed domain names is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement. From the evidence presented on the record, no agreement appears to have been entered into between Complainant and Respondent to the effect that the language of the proceeding should be English. Complainant filed initially its Complaint in English, and has requested that English be the language of the proceeding for the following main reasons:

- (a) The disputed domain names are solely composed of Latin characters, rather than Chinese script;
- (b) The disputed domain names resolve to sites which comprise English-language text (Annex 10 to the Complaint);
- (c) Respondent controls a number of domain names which comprise generic and descriptive English-language words, e.g. <boatsforsale.cn>, <bookmyshow.cm>, and <dentalplans.cm> (Annex 14 to the Complaint);
- (d) Respondent failed to respond to Complainant's English-language cease and desist correspondence to convey that it does not understand English/would like to receive correspondence in another language (if this is the case); and
- (e) Complainant's representatives are based in the UK and requiring a translation would result in the incurrance of additional expense and unnecessary delay;
- (f) Respondent appears to have some understanding of the English language; and
- (g) Complainant would be unduly disadvantaged by having to conduct the proceeding in Chinese.

Respondent did not make any submissions with respect to the language of the proceeding and did not object to the use of English as the language of the proceeding, despite the fact that the Center has sent the email regarding the language of the proceedings and the notification of Complaint in both Chinese and English.

Paragraph 11(a) of the Rules allows the panel to determine the language of the proceeding having regard to all the circumstances. In particular, it is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding. In other words, it is important to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes (*Whirlpool Corporation, Whirlpool Properties, Inc. v. Hui'erpu (HK) electrical appliance co. ltd.*, WIPO Case No. [D2008-0293](#); *Solvay S.A. v. Hyun-Jun Shin*, WIPO Case No. [D2006-0593](#)). The language finally decided by the panel for the proceeding should not be prejudicial to either one of the parties in its abilities to articulate the arguments for the case (*Groupe Auchan v. xmxzl*, WIPO Case No. [DCC2006-0004](#)). Section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") further states:

"Noting the aim of conducting the proceedings with due expedition, paragraph 10 of the UDRP Rules vests a panel with authority to conduct the proceedings in a manner it considers appropriate while also ensuring both that the parties are treated with equality, and that each party is given a fair opportunity to present its case.

Against this background, panels have found that certain scenarios may warrant proceeding in a language other than that of the registration agreement. Such scenarios include (i) evidence showing that the respondent can understand the language of the complaint, (ii) the language/script of the domain name particularly where the same as that of the complainant's mark, (iii) any content on the webpage under the disputed domain name, (iv) prior cases involving the respondent in a particular language, (v) prior correspondence between the parties, (vi) potential unfairness or unwarranted delay in ordering the complainant to translate the complaint, (vii) evidence of other respondent-controlled domain names registered, used, or corresponding to a particular language, (viii) in cases involving multiple domain names, the use of a particular language agreement for some (but not all) of the disputed domain names, (ix) currencies accepted on the webpage under the disputed domain names, or (x) other indicia tending to show

that it would not be unfair to proceed in a language other than that of the registration agreement.” ([WIPO Overview 3.0](#), section 4.5.1; see also *L’Oreal S.A. v. MUNHYUNJA*, WIPO Case No. [D2003-0585](#)).

The Panel has taken into consideration the facts that Complainant is a company from the U.S., and Complainant will be spared the burden of working in Chinese as the language of the proceeding. The Panel has also taken into consideration the fact that the disputed domain names include Latin characters (“payoneer”). The disputed domain names are registered with the gTLD comprising of the Latin characters, and particularly English words “.top” and “.vip” (*Compagnie Gervais Danone v. Xiaole Zhang*, WIPO Case No. [D2008-1047](#)).

On the record, Respondent, Yin Jun (尹军), appears to be a Chinese resident and is thus presumably not a native English speaker. However, considering the following, the Panel has decided that English should be the language of the proceeding: (a) the disputed domain names include Latin characters and English words, rather than Chinese scripts; (b) the gTLD of the disputed domain names are English words “.top” and “.vip”. So the disputed domain names seem to be prepared for users worldwide, including English speaking countries; (c) the websites resolved by the disputed domain names are in English, and comprise PPC advertising links to competing sites and services, and present content indicating that they are each available to purchase for USD 800 (Annex 10 to the Complaint); d) the Center has notified Respondent of the proceeding in both Chinese and English, and Respondent has indicated no objection to Complainant’s request that English be the language of the proceeding; and (e) the Center informed the Parties, in English and Chinese, that it would accept a Response in either English or Chinese. The Panel would have accepted a response in either English or Chinese but none was filed.

Accordingly, the Panel finds the choice of English as the language of the present proceeding is fair to both Parties and is not prejudicial to either one of the Parties in its ability to articulate the arguments for this case. Having considered all the matters above, the Panel determines under paragraph 11(a) of the Rules that English shall be the language of the proceeding, and the decision will be rendered in English.

6.2 Substantive Issues

Paragraph 4(a) of the Policy requires that a complainant must prove each of the following three elements to obtain an order that the disputed domain name should be cancelled or transferred:

- (i) the disputed domain name registered by respondent is identical or confusingly similar to a trademark or service mark in which complainant has rights; and
- (ii) 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.

On the basis of the evidence introduced by Complainant and in particular with regard to the content of the relevant provisions of the Policy (paragraphs 4(a)-(c)), the Panel concludes as follows:

A. Identical or Confusingly Similar

The Panel finds that Complainant has rights in the PAYONEER marks. The disputed domain names comprise the PAYONEER mark in its entirety. The disputed domain names only differ from Complainant’s trademarks by the gTLD suffix “.top” or “.vip” to the PAYONEER marks, respectively. None of these prevent the recognizability of Complainant’s marks within the disputed domain names, nor eliminate the confusing similarity between Complainant’s registered trademarks and the disputed domain names (*Decathlon v. Zheng Jianmeng*, WIPO Case No. [D2019-0234](#)).

Previous UDRP panels have consistently held that a domain name is 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](#)).

Further, in relation to the gTLD suffix, [WIPO Overview 3.0](#) further states: “[t]he applicable Top Level Domain (‘TLD’) in a domain name (e.g., ‘.com’, ‘.club’, ‘.nyc’) is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test.” ([WIPO Overview 3.0](#), section 1.11.1.)

The Panel therefore holds that the disputed domain names are identical to the marks in which Complainant has rights and thus the Complaint fulfils the first condition of paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in the disputed domain name:

(i) before any notice to respondent of the dispute, the use by respondent 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; or

(ii) respondent has been commonly known by the disputed domain name, even if respondent has acquired no trademark or service mark rights; or

(iii) 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 complainant’s trademarks.

The overall burden of proof on this element rests with Complainant. However, it is well established by previous UDRP panel decisions that once a complainant establishes a *prima facie* case that a respondent lacks rights or legitimate interests in a domain name, the burden of production shifts to respondent to rebut complainant’s contentions. If respondent fails to do so, a complainant is deemed to have satisfied paragraph 4(a)(ii) of the Policy. (*Danzas Holding AG, DHL Operations B.V. v. Ma Shikai*, WIPO Case No. [D2008-0441](#); [WIPO Overview 3.0](#), section 2.1 and cases cited therein).

The PAYONEER marks have been registered internationally, including a U.S. trademark registration for PAYONEER registered since 2008; and an international trademark registration for PAYONEER registered since 2016, which long precede Respondent’s registration of the disputed domain names (both in 2021). According to Complainant, founded in 2005, Complainant now has more than 1,500 employees across more than 20 global offices. It processes cross-border payments in over 200 countries and territories and serves more than five million customers in more than 35 languages.

Moreover, Respondent is not an authorized dealer of PAYONEER branded products or services. Complainant has therefore established a *prima facie* case that Respondent has no rights or legitimate interests in the disputed domain names and thereby shifted the burden to Respondent to produce evidence to rebut this presumption (*The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#); *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](#)).

Based on the following reasons, the Panel finds that Respondent has no rights or legitimate interests in the disputed domain names:

(a) there has been no evidence adduced to show that Respondent is using the disputed domain names in connection with a *bona fide* offering of goods or services. Respondent has not provided evidence of a legitimate use of the disputed domain names or reasons to justify the choice of the term “payoneer” in the disputed domain names and in its business operations. There has been no evidence to show that Complainant has licensed or otherwise permitted Respondent to use the PAYONEER marks or to apply for or use any domain names incorporating the PAYONEER marks.

(b) there has been no evidence adduced to show that Respondent has been commonly known by the disputed domain names. There has been no evidence adduced to show that Respondent has any registered trademark rights with respect to the disputed domain names. Respondent registered the disputed domain names in 2021, long after the PAYONEER marks became internationally known. The disputed domain names are identical to the PAYONEER marks.

(c) there has been no evidence adduced to show that Respondent is making a legitimate noncommercial or fair use of the disputed domain names. By contrast, as mentioned above, the disputed domain names currently resolve to websites, which comprise PPC advertising links to competing sites and services, and present content indicating that they are each available to purchase for USD 800. It seems that Respondent made profits through the Internet traffic attracted to the websites under the disputed domain names. (See *BKS Bank AG v. Jianwei Guo*, WIPO Case No. [D2017-1041](#); *BASF SE v. Hong Fu Chen, Chen Hong Fu*, WIPO Case No. [D2017-2203](#).)

The Panel notes that Respondent has not produced any evidence to establish its rights or legitimate interests in the disputed domain names. Moreover, the disputed domain names are identical to Complainant's marks and thus carry a high risk of implied affiliation that cannot be considered fair use. ([WIPO Overview 3.0](#), section 2.5.1.)

Accordingly, Complainant has established that Respondent has no rights or legitimate interests in the disputed domain names. The Panel therefore holds that the Complaint fulfils the second condition of paragraph 4(a) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out four circumstances, which, without limitation, shall be evidence of the registration and use of the disputed domain name in bad faith, namely:

(i) circumstances indicating that respondent has registered or acquired the disputed domain name primarily for the purpose of selling, renting, or otherwise transferring the disputed domain name registration to complainant who is the owner of the trademark or service mark or to a competitor of complainant, for valuable consideration in excess of respondent's documented out-of-pocket costs directly related to the disputed domain name; or

(ii) respondent has registered the disputed 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 respondent has engaged in a pattern of such conduct; or

(iii) respondent has registered the disputed domain name primarily for the purpose of disrupting the business of a competitor; or

(iv) by using the disputed domain name, respondent has intentionally attempted to attract, for commercial gain, Internet users to respondent's website or other online location, by creating a likelihood of confusion with complainant's mark as to the source, sponsorship, affiliation, or endorsement of respondent's website or location or of a product or service on the website or location.

The Panel concludes that the circumstances referred to in paragraph 4(b)(iv) of the Policy are applicable to the present case and upon the evidence of these circumstances and other relevant circumstances, it is adequate to conclude that Respondent has registered and used the disputed domain names in bad faith.

(a) Registration in Bad Faith

The Panel finds that Complainant has established that its PAYONEER marks have widespread reputation as a leading financial services company that specialises in online money transfer and digital payment services. It has more than 1,500 employees across more than 20 global offices. It processes cross-border payments

in over 200 countries and territories and serves more than five million customers in more than 35 languages. As mentioned above, the PAYONEER marks are registered internationally, including a U.S. trademark registration for PAYONEER registered since 2008; and an International trademark registration for PAYONEER registered since 2016. It is not conceivable that Respondent would not have had actual notice of the PAYONEER marks at the time of the registration of the disputed domain names (in 2021). The Panel therefore finds that the PAYONEER mark is not one that Respondent could legitimately adopt other than for the purpose of creating an impression of an association with Complainant (*The Argento Wine Company Limited v. Argento Beijing Trading Company, supra*).

Moreover, Respondent has chosen not to respond to Complainant's allegations. According to the UDRP decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company, supra*, "the failure of Respondent to respond to the Complaint further supports an inference of bad faith". See also *Bayerische Motoren Werke AG v. (This Domain is For Sale) Joshuathan Investments, Inc.*, WIPO Case No. [D2002-0787](#).

Thus, the Panel concludes that the disputed domain names were registered in bad faith.

(b) Use in Bad Faith

As mentioned above, Respondent uses the disputed domain names to resolve to websites, which comprise PPC advertising links to competing sites and services, and present content indicating that they are each available to purchase for USD 800. Thus, the Panel concludes that Respondent uses the disputed domain names with the intention to attract, for commercial gain, Internet users to Respondent's websites. The Panel therefore concludes that the disputed domain names were registered and used by Respondent in bad faith. Such use of the disputed domain names are also disruptive in relation to the interests of Complainant.

Given the reputation of the PAYONEER marks, the Panel finds that the public is likely to be confused into thinking that the disputed domain names have a connection with Complainant, contrary to the fact. There is a strong likelihood of confusion as to the source, sponsorship, affiliation or endorsement of the website to which the disputed domain names resolve. In other words, Respondent has, through the use of the disputed domain names that are identical to Complainant's marks, created a likelihood of confusion with the PAYONEER marks. Moreover, as mentioned above, Respondent invites Internet users to the websites to which the disputed domain names resolved, presumably for commercial gain.

In addition, the Panel notes that Respondent has been respondent in multiple WIPO decisions ordering the transfer of the domain names which contain the third-party trademarks or the variations thereof. See, for example, *Booking.com B.V. v. 尹军 (Yin Jun)*, WIPO Case No. [D2021-4374](#), and *Accenture Global Services Limited v. yinjun (尹军)*, WIPO Case No. [D2020-1312](#). This is a further indication of bad faith.

In summary, in the absence of evidence to the contrary from Respondent, the choice of the disputed domain names that are identical to Complainant's well-known trademarks and the use of the disputed domain names to websites with PPC links for commercial gains, as well as Respondent's engaging in a pattern of abusive domain name registration, are indicative of registration and use of the disputed domain names in bad faith.

The Panel therefore holds that the Complaint fulfils the third condition of paragraph 4(a) of the Policy.

7. Decision

For all 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 <payoneer.top> and <payoneer.vip> be transferred to Complainant.

/Yijun Tian/

Yijun Tian

Sole Panelist

Dated: May 25, 2022