

ADMINISTRATIVE PANEL DECISION

Check Into Cash, Inc. v. hubson, hubson berling
Case No. D2022-0213

1. The Parties

Complainant is Check Into Cash, Inc., United States of America (“United States”), represented by Chambliss, Bahner & Stophel, United States.

The Respondent is hubson, hubson berling, United States.

2. The Domain Name and Registrar

The disputed domain name <checkintocashs.com> (the “Domain Name”) is registered with NameSilo, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 21, 2022. On January 24, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On January 25, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent and contact information in the Complaint. The Center sent an email to Complainant on January 25, 2022, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on January 25, 2022.

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 January 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was February 16, 2022. A brief informal email Response was filed with the Center on January 27, 2022.

The Center appointed Robert A. Badgley as the sole panelist in this matter on February 23, 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

Complainant provides consumer loans and check cashing services online, and has done so since 1993. Complainant's website is located at "www.checkintocash.com".

Complainant holds several registrations of the trademark CHECK INTO CASH, including: United States Patent and Trademark Office ("USPTO") Reg. No. 2,256,904, registered on June 29, 1999 in connection with "consumer loan financing and check cashing services featuring deferred presentment and delayed deposit," with a June 1993 first use in commerce; and USPTO Reg. No. 4,292,267, registered on February 19, 2013 in connection with "financial services, namely, title loans, bill payment and money transfer services," with a May 2009 first use in commerce.

The Domain Name was registered on September 12, 2021. The Domain Name redirects to a website offering short-term consumer loans, in direct competition with Complainant.

On November 12, 2021, Complainant's counsel sent Respondent a cease-and-desist letter. Respondent did not reply to this letter.

5. Parties' Contentions

A. Complainant

Complainant contends that it has established all three elements required under the Policy for a transfer of the Domain Name.

B. Respondent

Respondent did not reply substantively to Complainant's contentions. In a January 27, 2022 email to the Center, after having received the Complaint in this proceeding, Respondent wrote: "Now I want to transfer my domain to you. How can I do it?"

6. Discussion and Findings

Paragraph 4(a) of the Policy lists the three elements which Complainant must satisfy with respect to the Domain Name:

- (i) the Domain Name 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 Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

A. Identical or Confusingly Similar

The Panel concludes that Complainant has rights in the famous trademark CHECK INTO CASH, through registration and use demonstrated in the record. The Panel finds the Domain Name to be confusingly similar to the CHECK INTO CASH mark. The mark is entirely reproduced in the Domain Name, and the additional letter "s" does little or nothing to reduce the confusing similarity between the mark and the Domain Name.

Complainant has established Policy paragraph 4(a)(i).

B. Rights or Legitimate Interests

Pursuant to paragraph 4(c) of the Policy, Respondent may establish its rights or legitimate interests in the Domain Name, among other circumstances, by showing any of the following elements:

- (i) before any notice to you [Respondent] of the dispute, your use of, or demonstrable preparations to use, the Domain Name or a name corresponding to the Domain Name in connection with a *bona fide* offering of goods or services; or
- (ii) you [Respondent] (as an individual, business, or other organization) have been commonly known by the Domain Name, even if you have acquired no trademark or service mark rights; or
- (iii) you [Respondent] are making a legitimate noncommercial or fair use of the Domain Name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue.

The Panel concludes that Respondent lacks rights or legitimate interests in the Domain Name. Respondent has articulated any *bona fide* reason for registering the Domain Name, and he has not disputed any of Complainant's allegations. Rather, Respondent stated his desire to transfer the Domain Name. It is undisputed that Respondent has no authority from Complainant to register the Domain Name. It is also clear from the record presented here that Respondent redirected the Domain Name to a website offering services that compete with Complainant's services. Such conduct is clearly illegitimate.

Complainant has established Policy paragraph 4(a)(ii).

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy provides that the following circumstances, "in particular but without limitation," are evidence of the registration and use of the Domain Name in "bad faith":

- (i) circumstances indicating that Respondent has registered or has acquired the Domain Name primarily for the purpose of selling, renting, or otherwise transferring the Domain Name registration to Complainant who is the owner of the trademark or service mark or to a competitor of that Complainant, for valuable consideration in excess of its documented out of pocket costs directly related to the Domain Name; or
- (ii) that Respondent has 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 Respondent has engaged in a pattern of such conduct; or
- (iii) that Respondent has registered the Domain Name primarily for the purpose of disrupting the business of a competitor; or
- (iv) that by using the 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 Respondent's website or location.

The Panel concludes that Respondent has registered and used the Domain Name in bad faith. The Panel incorporates its discussion above in the "Rights or Legitimate Interests" section. The Panel finds it likely that Respondent had Complainant's CHECK INTO CASH mark in mind when registering the Domain Name. The inexplicable additional "s" in the Domain Name smacks of typosquatting, and the fact that the Domain Name resolves to a website offering services in competition with Complainant's own services reinforces the conclusion that Respondent has targeted Complainant's trademark.

Respondent's use of the Domain Name clearly runs afoul of the above-quoted Policy paragraph 4(b)(iv), and hence constitutes bad faith use.

Complainant has established Policy paragraph 4(a)(iii).

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 Domain Name <checkintocashs.com> be transferred to Complainant.

/Robert A. Badgley/

Robert A. Badgley

Sole Panelist

Date: March 9, 2022