

ADMINISTRATIVE PANEL DECISION

CNU Online Holdings, LLC v. Luis Bangal, CLUB 13

Case No. D2022-4744

1. The Parties

The Complainant is CNU Online Holdings, LLC, United States of America (“United States”), represented by Squire Patton Boggs (US) LLP, United States.

The Respondent is Luis Bangal, CLUB 13, Australia.

2. The Domain Name and Registrar

The disputed domain name <usacashnetloan.com> is registered with NameCheap, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 9, 2022. On December 12, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 12, 2022, 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 (Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 19, 2022, 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 amendment to the Complaint and an amended Complaint on December 19 and 28, 2022 respectfully.

The Center verified that the Complaint together with the amendment to the Complaint and 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 December 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was January 17, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 23, 2023.

The Center appointed Miguel B. O'Farrell as the sole panelist in this matter on February 3, 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, CNU Online Holdings, LLC, is a Chicago-based financial services company that provides personal loans to online consumers under the CASHNETUSA brand since or around 2004.

The Complainant owns several United States trademark registrations for CASHNETUSA, including the following:

United States Trademark Registration No. 3,210,976 CASHNETUSA, registered on February 20, 2007, with first use on May 1, 2004, covering: "Financial lending services, namely, money lending" in class 36.

Since at least 2004, the Complainant carries out its business and promotes its services through its website "www.cashnetusa.com".

The disputed domain name was registered by the Respondent on July 16, 2018, and resolves to a webpage in which the Respondent offers the same type of loans as those offered by the Complainant.

5. Parties' Contentions

A. Complainant

The Complainant has been using the CASHNETUSA trademarks referred to above in section 4 (Factual Background) since 2004.

The disputed domain name is confusingly similar with the trademark CASHNETUSA in which the Complainant has rights and the Respondent has no rights or legitimate interests in the disputed domain name, which was registered and is being used in bad faith.

The Respondent uses the disputed domain name to represent itself as, or connected to, the Complainant conducting an online consumer loan business, identical to the Complainant. In addition, the Complainant's CASHNETUSA trademarks are prominently displayed on the website and used without the knowledge and permission of the Complainant.

The Respondent is intentionally using the Complainant's CASHNETUSA marks to collect consumers' personal identifiable information while providing false contact information so injured consumers cannot seek redress. The Complainant's counsel also attempted to deliver a cease and desist letter to the Respondent's email address, but was unsuccessful in doing so.

Finally, the Complainant requests the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainant.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

According to paragraph 4(a) of the Policy, for this Complaint to succeed in relation to the disputed domain name, the Complainant must prove each of the following, namely that:

- (i) the disputed domain name is identical or confusingly similar with a trademark or service mark 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 was registered and is being used in bad faith.

A. Identical or Confusingly Similar

As set forth in section 1.7 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") the standing test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name to determine whether the disputed domain name is confusingly similar with the trademark. The test involves a side-by-side comparison of the disputed domain name and the textual components of the relevant trademark to assess whether the mark is recognizable within the disputed domain name.

The Panel considers that the disputed domain name is confusingly similar with the Complainant's CASHNETUSA trademark.

The disputed domain name incorporates the Complainant's trademark CASHNETUSA in its entirety, with only differences being: the "usa" at the beginning rather than at the end and the addition of the term "loan", which do not prevent a finding of confusing similarity. Section 1.8 of [WIPO Overview 3.0](#) provides that when the relevant trademark is recognizable within the disputed domain name – as it occurs in this case - the addition of other terms (whether descriptive or otherwise) would not prevent a finding of confusing similarity under the first element.

The ".com" generic Top-Level Domain ("gTLD") is viewed as a standard registration requirement and is generally disregarded under the first element confusing similarity test, as set forth in section 1.11.1 of [WIPO Overview 3.0](#).

Accordingly, the Panel finds that the disputed domain name is confusingly similar to the trademark CASHNETUSA in which the Complainant has rights and that the requirements of paragraph 4(a)(i) of the Policy are fulfilled.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy sets out the following several circumstances which, without limitation, if found by the panel, shall demonstrate that the respondent has rights to or legitimate interests in a disputed domain name, for the purposes of paragraph 4(a)(ii) of the Policy:

- before any notice to the respondent of the dispute, the respondent's use 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
- the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name, even if the respondent has acquired no trademark or service mark rights; or
- the 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 the trademark or service mark at issue.

The Complainant has proved that they are the owners of the CASHNETUSA mark. There is no indication that they have licensed or otherwise permitted the Respondent to use any of their trademarks, nor have they permitted the Respondent to apply for or use the disputed domain name.

There is no evidence in the present case that the Respondent has been commonly known by the disputed domain name, enabling it to establish rights or legitimate interests therein. The name of the Respondent does not resemble the disputed domain name in any manner.

Furthermore, there is no evidence in the file to prove any of the circumstances mentioned in paragraph 4(c) of the Policy, nor any other element to prove that the Respondent has legitimate interests or that it has established rights in the disputed domain name.

As established in section 2.5 of [WIPO Overview 3.0](#): “Fundamentally, a respondent’s use of a domain name will not be considered ‘fair’ if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and the complainant’s mark is often central to this inquiry”. In this case, the Panel considers that the disputed domain name carries a risk of implied affiliation with the Complainant and the Complainant’s CASHNETUSA mark.

The Panel finds that the Complainant has made out a *prima facie* case, a case calling for an answer from the Respondent. The Respondent has not responded and the Panel is unable to conceive of any basis upon which the Respondent could sensibly be said to have any rights or legitimate interests in respect of the disputed domain name (*Telstra Corporation Limited. v. Nuclear Marshmallows*, WIPO Case No. [D2000-0003](#)).

The Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name and that the requirements of paragraph 4(a)(ii) of the Policy have been fulfilled.

C. Registered and Used in Bad Faith

The Panel is satisfied that the Respondent must have been aware of the Complainant’s trade trademark CASHNETUSA mentioned in section 4 above (Factual Background) and also the Complainant’s website “www.cashnetusa.com” when it registered the disputed domain name. By that time, the Complainant had registered and used the trademark CASHNETUSA for over a decade.

By registering the disputed domain name, the Respondent was targeting the Complainant and its business by incorporating the Complainant’s trademark CASHNETUSA in the disputed domain name with the “usa” at the beginning rather than at the end and by including the descriptive word “loan”, which only contributes to increase confusion, with the intention to confuse Internet users and capitalize on the goodwill of the Complainant and its trademark for its own benefit.

The fact that there is a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the disputed domain name, the nature of the disputed domain name, the use of the disputed domain name to resolve to a website with an online consumer loan business, identical to that of the Complainant are indicative of bad faith (as stated in section 3.2.1 of the [WIPO Overview 3.0](#)). The Panel finds that the Respondent registered and is using the disputed domain name in bad faith.

For the above reasons, the Panel finds that the requirements of paragraph 4(a)(iii) of the Policy have 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 name <usacashnetloan.com> be transferred to the Complainant.

/Miguel B. O'Farrell/

Miguel B. O'Farrell

Sole Panelist

Date: February 17, 2023