

ADMINISTRATIVE PANEL DECISION

Coinme Inc. v. main main / main

Case No. D2023-0039

1. The Parties

The Complainant is Coinme Inc., United States of America ("United States" or "US"), represented by Seed IP Law Group LLC, United States.

The Respondent is main main / main, China.

2. The Domain Name and Registrar

The disputed domain name <coinmeant.com> is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 5, 2023. On January 5, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On January 6, 2023, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that the 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 January 11, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 31, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 1, 2023.

The Center appointed Zoltán Takács as the sole panelist in this matter on February 14, 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

Founded in 2014 the Complainant was the first licensed bitcoin ATM company in the United States.

Currently, the Complainant has thousands of physical locations in 49 US states to buy and sell bitcoin using cash through partnership with Coinstar and MoneyGram.

The Complainant's services are also available on its Coinme mobile application, available for download from the Apple App Store and Google Play Store. The Coinme app allows users to securely purchase, sell, store, receive, and manage their cryptocurrency.

The Complainant among others owns the US Trademark Registration No. 4791525 for the word mark COINME, registered since August 11, 2015 for services related to cryptocurrency and related financial services.

The Complainant is also owner of the domain name <coinme.com>, which was registered on September 5, 2012 and links to its corporate website.

The disputed domain name was registered on September 4, 2022 and resolved to a website using the Complainant's mark as well as its signature Coinme logo in connection with the promotion of cryptocurrency and related financial services. Currently the disputed domain name resolves to an error page.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name, which fully reproduces its COINME trademark with addition of the term "ant", is confusing similar to it.

The Complainant alleges that the Respondent has no rights or legitimate interests in respect of the disputed domain name and is unable to rely on any of the circumstances set out in paragraphs 4(c)(i), (ii), or (iii) of the Policy.

The Complainant claims that the Respondent has previously registered abusive domain names confusingly similar to its COINME trademark, which is evidence of the Respondent's deliberate misuse of its trademark and bad faith registration and use of the disputed domain name.

The Complainant requests that the disputed domain name be transferred from the Respondent to the Complainant.

B. Respondent

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

6. Discussion and Findings

Paragraph 15(a) of the Rules requires that the Panel's decision be made "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

A complainant must evidence each of the three elements required by paragraph 4(a) of the Policy in order to succeed on the complaint, namely that:

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

A. Identical or Confusingly Similar

Under paragraph 4(a)(i) of the Policy, there are two requirements which the Complainant must establish, first that it has rights in a trademark or service mark, and second that the disputed domain name is identical or confusingly similar to the trademark or service mark.

It has been a consensus view among UDRP panels that if the complainant owns a trademark, then it generally satisfies the threshold requirement of having trademark rights.

The Panel determines that the Complainant's US Trademark Registration No. 4791525 satisfies the requirement of having trademark rights for the purpose of the Policy.

Having determined the presence of the Complainant's relevant trademark rights, the Panel next assesses whether the disputed domain name is identical or confusingly similar to the Complainant's trademark.

According to section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)") 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.

According to section 1.8 of the [WIPO Overview 3.0](#), where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element.

According to section 1.11.1 of the [WIPO Overview 3.0](#), the applicable Top-Level Domain ("TLD") in a domain name (in this case ".com") is viewed as a standard registration requirement and as such is generally disregarded under the first element confusingly similar test.

The Respondent has fully incorporated the Complainant's COINME trademark in the disputed domain name.

The addition of the term "ant" (which is also the native cryptocurrency of the Aragon network that provides infrastructure and service to users of the Aragon platform), in view of the Panel, does not prevent a finding of confusing similarity (see section 1.10 of the [WIPO Overview 3.0](#)).

The Panel finds that the disputed domain name is confusingly similar to the Complainant's trademark and that requirement of paragraph 4(a)(i) of the Policy is satisfied.

B. Rights or Legitimate Interests

Under paragraph 4(c) of the Policy, a respondent may demonstrate its rights or legitimate interests in a domain name by showing any of the following circumstances, in particular but without limitation:

- (i) its use of, or demonstrable preparation to use the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods and services;
- (ii) it has been commonly known by the domain name;

- (iii) it is making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert customers or to tarnish the trademark or service mark at issue.

According to section 2.1 of the [WIPO Overview 3.0](#), while 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 often impossible 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 the relevant evidence demonstrating rights or legitimate interests in the domain name. If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element.

In the present case, the Complainant has submitted sufficient and uncontested evidence that it holds registered prior rights in a trademark, use of which it has never permitted to the Respondent, in a domain name or otherwise.

As shown by the Complainant, the Respondent has used the disputed domain name to confuse Internet users presumably looking for the Complainant through redirecting them to its own website, which extensively used references to the Complainant, its COINME trademark and signature Coinme logo and purportedly offered goods and services of the Complainant's exact business. This cannot constitute fair use because it effectively impersonates or suggest sponsorship or endorsement by the Complainant (see sections 2.5.1 and 2.13.1 of the [WIPO Overview 3.0](#)).

The Respondent defaulted and failed to respond, and by doing so failed to offer the Panel any type of evidence set forth in paragraph 4(c) of the Policy, or otherwise counter the Complainant's *prima facie* case.

The Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy lists a number of factors which, if found by the panel to be present, shall be evidence of registration and use of a domain name in bad faith. This non-exclusive list includes:

- “(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 website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your website or location or of a product or service on your website or location.”

The COINME trademark is distinctive and unique to the Complainant and its business.

The Respondent's reproduction of the Complainant's COINME trademark in the disputed domain name and extensive use of it at the website under the disputed domain name, coupled with use of the Complainant's signature Coinme logo is indicative of the Respondent's actual knowledge and targeting of the Complainant's business and trademark at the time of registration of the disputed domain name.

The Respondent's use of the disputed domain name to divert Internet traffic intended for the Complainant to its website through impersonation or false association amounts to bad faith registration and use within the meaning of paragraph 4(b)(iv) of the Policy.

In addition, the Respondent has registered multiple domain names found by UDRP panels to be in abuse of the Complainant's COINME trademark (e.g., *Coinme Inc. v. main main*, WIPO Case No. [D2022-3320](#) and *Coinme Inc. v. main main*, WIPO Case No. [D2022-3322](#)). The Respondent's registration of trademark-abusive domain names corresponding to the distinct marks of individual brand owners, even when directed at the same brand owner qualifies as a pattern of conduct expressly forbidden by paragraph 4(b)(ii) of the Policy (see section 3.1.2 of the [WIPO Overview 3.0](#)).

The fact that at the time of rendering of this decision the disputed domain name did not resolve to active website does not alter the Panel's findings (see section 3.3 of the [WIPO Overview 3.0](#)).

For the reasons set out above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith and that paragraph 4(a)(iii) of the Policy is satisfied.

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 <coinmeant.com> be transferred to the Complainant.

/Zoltán Takács/

Zoltán Takács

Sole Panelist

Date: February 24, 2023