

ADMINISTRATIVE PANEL DECISION

Paylib Services v. Carolina Rodrigues, Fundacion Comercio Electronico
Case No. D2023-0214

1. The Parties

The Complainant is Paylib Services, France, represented by ARAMIS Société d'Avocats, France.

The Respondent is Carolina Rodrigues, Fundacion Comercio Electronico, Panama.

2. The Domain Names and Registrars

The disputed domain name <paylibfrance.com> is registered with NameCheap, Inc. (the "Registrar").

The disputed domain name <paylibversement.com> is registered with GoDaddy.com, LLC (the "Registrar").

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on January 17, 2023. On January 18, 2023, the Center transmitted by email to the Registrars a request for registrar verification in connection with the disputed domain names. On January 18, 2023, the Registrars transmitted by email to the Center their verification responses 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 February 1, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 21, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on February 22, 2023.

The Center appointed Daniel Peña as the sole panelist in this matter on March 6, 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 is the result of a consortium of several French banks wishing to jointly launch a range of electronic payment services.

The Complainant is the owner of a large portfolio of trademark registrations including the following:

- The registered European Union (“EU”) word mark PAYLIB No. 018208901, registered on August 7, 2020, designating several services in classes 36 and 38;
- The registered French word mark PAYLIB No. 4559533, registered on November 8, 2019, designating several services in classes 36 and 38;
- The registered EU figurative mark PAYLIB No. 018209143, registered August 7, 2020, designating several services in classes 36 and 38;
- The registered French figurative mark PAYLIB No. 4033340, registered on January 24, 2014, designating several goods and services in classes 9, 35, 36, and 38;
- The registered United Kingdom (“UK”) word mark PAYLIB No. UK00918208901, registered on August 7, 2020, designating several services in classes 36 and 38;
- The registered UK figurative mark PAYLIB No. UK00918209143, registered on August 7, 2020, designating several services in classes 36 and 38.

The disputed domain name <paylibversement.com> was registered on December 7, 2022, and resolves to a website displaying the message “Deceptive site ahead”. The disputed domain name <paylibfrance.com> was registered on December 19, 2022, and resolves to a website displaying pay-per-click links.

5. Parties’ Contentions

A. Complainant

The Complainant has been providing electronic payment services under the company name “Paylib” since its incorporation in 2010.

The Complainant services include the following:

- Paylib online: an online payment service used on online retail websites and platforms.
- Contactless Paylib: a contactless payment service, available on Android, which can be used at any merchant that accepts NFC payment.
- Paylib between friends: a payment between individuals’ component of Paylib allowing users linking their mobile phone number to their account via Paylib to initiate a simplified and instant transfer between individuals using the recipient’s phone number.

The Complainant has been adopted by the vast majority of French banks in order for their clients to benefit from PAYLIB payment services.

The disputed domain names reproduce the earlier trademarks registered by the Complainant. The disputed

domain names incorporate the terms “versement” (meaning “payment” in French), and “france”. The disputed domain names were clearly chosen to impersonate the Complainant for the purpose of misleading the public, either professional or consumers, and to commit fraudulent and malicious acts to their detriment as well as that of the Complainant.

The Respondent has no rights or legitimate interest in the disputed domain names. No third party is licensed, contracted or granted authorization to register and/or to use the Complainant’s trademarks with respect to the disputed domain names. The disputed domain name <paylibversement.com> is not accessible. The disputed domain name <paylibfrance.com> is linked to a website with links, which are offering users to proceed with a card payment and pay their bills.

The disputed domain name <paylibversement.com> has never been associated with a website and is even blocked by the browser. This passive holding of the disputed domain name is amount to a registration and use in bad faith. Both of the disputed domain names use all possible methods to foster confusion with the Complainant’s activities and with the reproduction of the Complainant’s trademarks. The disputed domain name <paylibfrance.com>, which is the only accessible website to date, goes as far as offering the public to proceed with a payment.

The Respondent’s bad faith is further characterized by the fact that it has taken deliberate steps to conceal its identity when registering the disputed domain names.

B. Respondent

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

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements listed in paragraph 4(a) of the Policy have been satisfied:

- (i) the disputed domain names are 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 names; and
- (iii) the disputed domain names have been registered and are being used in bad faith.

Considering these requirements, the Panel rules as follows:

A. Identical or Confusingly Similar

Paragraph 4(a)(i) of the Policy requires the Complainant to show that the disputed domain names are identical or confusingly similar to a trademark or service mark in which the Complainant has rights.

The Complainant has provided evidence of its rights in the PAYLIB trademarks on the basis of its multiple trademark registrations in several countries including France, UK and the EU. A trademark registration provides a clear indication that the rights in the trademark belong to the Complainant (see WIPO Overview of WIPO Panel Views on Selected UDRP page 4 Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 1.2.1).

It has also been established by prior UDRP panels that incorporating a trademark in its entirety into a domain name can be sufficient to establish that the domain name is confusingly similar to a trademark. Such finding is confirmed, for example, within section 1.7 of the [WIPO Overview 3.0](#).

The Respondent's incorporation of the Complainant's mark in full in the disputed domain names is sufficient to establish that the disputed domain names are confusingly similar to the Complainant's mark. The mere addition of the geographic term "france" as well as the term "versement", which corresponds in French to "payment", to the Complainant's trademark PAYLIB does not prevent a finding of confusing similarity with the Complainant's mark.

Furthermore, the addition of the generic Top-Level Domain ("gTLD") ".com" is viewed as a standard registration requirement and as such is disregarded under the first element confusing similarity test (see section 1.11 of the [WIPO Overview 3.0](#)).

The Panel is satisfied that the disputed domain names are identical or confusingly similar to the Complainant's mark and the Complainant has satisfied the requirement of paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant argues that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant bears the burden of proof in establishing this requirement. In view of the difficulties inherent in proving a negative and because the relevant information is mainly in the possession of the Respondent, it is enough for the Complainant to establish a *prima facie* case which, if not rebutted by from the Respondent with relevant evidence, will lead to this ground being set forth. Refraining from submitting any Response, the Respondent has brought to the Panel's attention no circumstances from which the Panel could infer that the Respondent has rights to or legitimate interests in the disputed domain name.

The Panel will now examine the Complainant's arguments regarding the absence of rights or legitimate interests of the Respondent in connection with the disputed domain names. The Complainant claims that the Respondent has no connection or affiliation with the Complainant and has not received any license or consent, express or implied, to use the Complainant's trademarks in a domain name or in any other manner.

Furthermore, the disputed domain name <paylibversement.com> directs to a website displaying the message "Deceptive site ahead". The disputed domain name <paylibfrance.com> is linked to a website displaying pay-per-click links related to card payment, pay bills and etc. The Panel also finds that the nature of both disputed domain names carries a risk of implied affiliation with the Complainant's trademarks (see [WIPO Overview 3.0](#), section 2.5.1).

The Respondent did not submit a Response or attempt to demonstrate any rights or legitimate interests in the disputed domain name, and the Panel draws adverse inferences from this failure, where appropriate, in accordance with the Rules, paragraph 14(b).

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

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy stipulates that any of the following circumstances, *inter alia*, shall be considered as evidence of the registration and use of a domain name in bad faith: (i) circumstances indicating that the respondent registered or 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 the respondent's documented out-of-pocket costs directly related to the domain name; or (ii) circumstances indicating that the respondent 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 the respondent has engaged in a pattern of such conduct; or (iii) circumstances indicating that the respondent registered the domain name primarily for the purpose of disrupting the business of a competitor; or (iv) circumstances indicating that the respondent is using the domain name to intentionally attempt to attract, for commercial gain, Internet users

to its 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 the respondent's website or location or of a product or service on its website or location.

With regard to the bad faith at the time of registration, the Panel notes that "paylib" is not a common or descriptive term, but a renowned trademark in and to which the Complainant has demonstrated its rights. The disputed domain names reproduces, without any authorization or approval, the Complainant's registered trademarks, and this is the only distinctive component of the disputed domain names. Moreover, the disputed domain names are inherently misleading as it reproduces the Complainant's PAYLIB trademark together with the geographic term "france", where the Complainant is located, and the term "versement" ("payment" in English), which is related to the Complainant's business. Therefore, it is very unlikely that the Respondent was not aware of the existence of the Complainant's trademarks when registering two disputed domain names that entirely reproduce the Complainant's trademark with additional terms related to the Complainant's location or business.

The bad faith registration and use of the disputed domain names is also affirmed by the fact that the Respondent has not denied, or even responded to, the assertions of bad faith made by the Complainant in this proceeding. Furthermore, the Panel finds that the use of the disputed domain name <paylibversement.com> for a website displaying the message "Deceptive site ahead" in the circumstances of the case does not prevent a finding of bad faith registration and use. On the contrary, this Panel agrees with the Complainant's assertion that in the case of domain names containing the earlier well-known marks, such use can constitute an indication of bad faith. Further, the Panel doubts that the disputed domain name <paylibversement.com>, which incorporates the Complainant's widely-known trademark with a term related to the Complainant's business, may be put for any good faith use, and any active use of this disputed domain name would disrupt the Complainant's business.

The Respondent appears to have chosen the disputed domain name <paylibfrance.com> in order to deliberately attract Internet users to its website in the mistaken belief that it is a website of the Complainant, or otherwise linked to or authorized by the Complainant. As such, the Panel is satisfied that by using the disputed domain name <paylibfrance.com>, the Respondent has intentionally attempted to attract, for commercial gain, Internet users to its website by creating a likelihood of confusion with the Complainant's mark as to the source, sponsorship, affiliation, or endorsement of its website or of the products on its website.

Moreover, UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar (particularly domain names incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Accordingly, the Panel finds, based on the evidence presented, that the Respondent registered and is using the disputed domain names in bad faith. Therefore, the Complainant has satisfied paragraph 4(a)(iii) 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 names <paylibfrance.com> and <paylibversement.com> be transferred to the Complainant.

/Daniel Peña/

Daniel Peña

Sole Panelist

Date: March 20, 2023