



VS.



## PAYPAL SUES PANDORA FOR RIPPING OFF ITS LOGO DESIGN

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Did Pandora Radio steal PayPal's logo in a feeble attempt to attract its visitors? Or was it just a mere coincidence?

The premise behind trade mark laws is to permit companies to utilise unique identifies such as branding in order to distinguish themselves. The fundamental concern relating to infringement is that real or potential customers are confused as to the source of a product or company because of a conflicting brand image. With that in mind, it is interesting to consider the situation where PayPal customers would be confused with the music sharing platform Pandora.

In October 2016, Pandora announced it was redesigning its logo from a thin, serified "P" into the chunky, sans serified "P" that it is today. The colour scheme was also changed from midnight blue to a softer shade of blue. By comparison, PayPal's logo, active since 2014, also features a minimalist-looking "P" in a sans serif font and sporting a blue colour palette. PayPal's mark actually consists of two overlapping and slanted "P's", whereas Pandora keeps it to one. Both P's lack a hole.

It's over these two logos that PayPal has filed its lawsuit in America:



Are they similar? Yes they are both a blue 'P', and PayPal insists the similar logos are causing confusion for their customers. For example from Twitter:



Arguably though, this confusion isn't the sort of predicament that trade mark law sets out to manage. The law's primary focus is in keeping the public from mistaking the origin of a product. Here, the Twitter user isn't actually confused that Pandora suddenly became a payment processing application, but rather that the logos are similar.

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PayPal says that *“There is a demonstrable nexus between PayPal’s and Pandora’s services, starting with the fact that the companies are in direct competition for the precious ‘real estate’ on the screens of consumers’ mobile devices”.*

Although this case will be played out in America, if it were in Australia, to be successful PayPal would need to be successful under one of the 3 following circumstances:

1. The Pandora mark is substantially identical or deceptively similar in relation to goods or services provided by PayPal – they are not even closely related services.

2. The goods or services are closely related or in the same description and are likely to deceive or confuse – most people will not confuse Pandora’s services with that of PayPal.
3. The trade mark is “well known” and the Pandora mark would likely indicate a connection between the goods or services of Pandora and PayPal – a possible connection could be made, but at a stretch.

Nowhere does mobile device screen real estate get mentioned as relevant factor. Its early days in this dispute but if it were an Australian dispute, based on these 3 tests, the early arguments put forward by PayPal look shaky.

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