

## ADMINISTRATIVE PANEL DECISION

Capital One Financial Corporation v. 杨智超 (Zhichao Yang)  
Case No. D2022-3827

### 1. The Parties

The Complainant is Capital One Financial Corporation, United States of America (“United States” or “U.S.”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is 杨智超 (Zhichao Yang), China.

### 2. The Domain Names and Registrar

The disputed domain names <capitalloneshopping.com>, <capitalonedhopping.com>, <capitaloneshopping.com>, <capitaloneshopping.com>, <capitaloneshopping.com>, <capitaloneshopping.com>, and <shoppingcapitalone.com> are registered with Alibaba Cloud Computing (Beijing) Co., Ltd. (the “Registrar”).

### 3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 12, 2022. On October 13, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 14, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint. The Center sent an email communication to the Complainant on October 17, 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 amended Complaint in English on October 19, 2022.<sup>1</sup>

On October 17, 2022, the Center sent an email in English and Chinese to the Parties regarding the language of the proceeding. The Complainant confirmed its request that English be the language of the proceeding on October 19, 2022. The Respondent did not comment on the language of the proceeding.

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

---

<sup>1</sup> The Complainant’s original Complaint included another domain name in dispute but it was removed by the Complainant upon receipt of the Center’s notice of October 17, 2022 regarding multiple underlying registrants. The Complaint was amended to cover only the seven disputed domain names.

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 in English and Chinese of the Complaint, and the proceedings commenced on October 27, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 16, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 18, 2022.

The Center appointed Francine Tan as the sole panelist in this matter on November 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

The Complainant, Capital One Financial Corporation, is a leading financial services institution headquartered in McLean, Virginia, United States, established in 1994. The Complainant’s operations are organized in three major business segments, namely, credit card, consumer banking and commercial banking. The Complainant states that in the fiscal year 2021, the Complainant achieved exceptional financial results: loan growth of over 10% drove revenue up to USD 30.4 billion, which was an 8.8% increase from fiscal year 2020. Its net income also rose by USD 9.7 billion to reach USD 12.4 billion. The Complainant has also been the recipient of numerous industry accolades, including Fortune World’s Most Admired Companies and Equal Opportunity Magazine’s Top 50 Employers.

The Complainant states that it maintains a strong Internet presence, communicating with its customers and promoting its range of products and services through its website and social media profiles. The Complainant registered its primary domain name <capitalone.com> on March 13, 1995, which is the 218th most popular website globally and 62nd in the United States, having received 118.3 million visits during May 2022 alone. The Complainant also registered its domain name <capitaloneshopping.com> on July 29, 2020. The Complainant has over 4 million “Likes” on its Facebook page, 558,000 followers on LinkedIn and 205,000 followers on Twitter.

Capital One Shopping is the Complainant’s free browser extension that automatically searches for online coupons, better prices and rewards at over 30,000 online retailers for consumers to save money when shopping online. In 2021, the Complainant’s Capital One Shopping found more than USD 160 million in savings for its users. The free extension can be downloaded at the Complainant’s website located at “www.capitaloneshopping.com”. SimilarWeb ranks this website the 3,776th most popular globally and 697th in the U.S., with an estimated 19.1 million individual visits in May 2022.

The Complainant is the owner of the following trade mark registrations:

- Chinese Trade Mark Registration No. 14585113 for CAPITAL ONE, registered on July 14, 2015;
- Chinese Trade Mark Registration No. 14585112 for , registered on July 14, 2015;
- Hong Kong, China Trade Mark Registration No. 2000B05130 for CAPITAL ONE, registered on March 31, 2000;
- U.S. Trade Mark Registration No. 2065991 for CAPITAL ONE, registered on May 27, 1997; and
- U.S. Trade Mark Registration No. 6747694 for CAPITAL ONE SHOPPING, registered on May 31, 2022.

The disputed domain names <capitaloneshopping.com>, <capitalonedhopping.com>, <capitaloneshhopping.com>, <capitaloneshopoing.com>, <capitaloneshoppinh.com>, <capitalonesh0pping.com>, and <shoppingcapitalone.com> were registered on July 20, 2021. All of the disputed domain names resolve to websites displaying Pay-Per-Click (“PPC”) links which redirect Internet users to websites featuring links to third-party websites, some of which directly compete with the Complainant’s business.

## 5. Parties’ Contentions

### A. Complainant

The disputed domain names are confusingly similar to the Complainant’s CAPITAL ONE and CAPITAL ONE SHOPPING trade marks. The disputed domain names are all purposeful misspellings of the string “Capital One Shopping” which includes the Complainant’s CAPITAL ONE trade mark in its entirety. Each of the disputed domain names vary from the string by one or two letters:

- a. <capitaloneshopping.com> – the “l” in the word “capital” is repeated;
- b. <capitalonedhopping.com> – the “s” in the word “shopping” is replaced with the adjacent letter “d”;
- c. <capitalonesh0pping.com> – the “o” in the word “shopping” is replaced with the similar-looking numeral “0”;
- d. <capitaloneshhopping.com> – the “h” in the word “shopping” is repeated;
- e. <capitaloneshopoing.com> – the second “p” in the word “shopping” is replaced with the adjacent letter “o”;
- f. <capitaloneshoppinh.com> – the “g” in the word “shopping” is replaced with the adjacent letter, “h”; and
- g. <shoppingcapitalone.com> – the string is spelt with “shopping” at the front.

The Respondent has no rights or legitimate interests in respect of the disputed domain names. The Respondent is not sponsored by or affiliated with the Complainant in any way. The Complainant has not given the Respondent permission to use the Complainant’s trade marks in any manner, including in domain names. The Respondent is not commonly known by the disputed domain names, which evidences a lack of rights or legitimate interests. The Respondent is using the disputed domain names to redirect Internet users to websites featuring links to third-party websites, some of which directly compete with the Complainant’s business. For instance, the websites at which the disputed domain names resolve feature multiple third-party links for products and services that compete with the Complainant as well as links that directly reference the Complainant and its business, namely “Capitaloneshopping” and “Capital One Coupon App”. The Respondent presumably receives PPC fees from the third-party links on the disputed domain names websites. Such use does not constitute a *bona fide* offering of goods or services that would give rise to rights or legitimate interests in a dispute domain name. In addition, the Respondent registered the disputed domain names significantly after the Complainant filed for registration of its CAPITAL ONE and CAPITAL ONE SHOPPING trade marks and after the Complainant registered its domain names <capitalone.com> and <capitaloneshopping.com>.

The disputed domain names were registered and are being used in bad faith. The Complainant and its CAPITAL ONE trade mark are known internationally. The Complainant has marketed and sold its goods and services under the trade mark since 1994, well before the Respondent’s registration of the disputed domain names. By registering the seven disputed domain names that comprise one or two-letter misspellings of the string “capital one shopping”, the Respondent has created numerous disputed domain names that are

confusingly similar to the Complainant's CAPITAL ONE and CAPITAL ONE SHOPPING trade marks, as well as its <capitalone.com> and <capitaloneshopping.com> domain names. As such, the Respondent has demonstrated a knowledge of and familiarity with the Complainant's brand and business. Given the number of disputed domain names and their composition, it is not possible to conceive of a plausible situation in which the Respondent would have been unaware of the Complainant's brands at the time the disputed domain names were registered. CAPITAL ONE and CAPITAL ONE SHOPPING are so closely linked and associated with the Complainant that the Respondent's use of the disputed domain names, or any minor variation of them, strongly implies opportunistic bad faith by the Respondent who has no connection with the Complainant and its products.

The Complainant has been a leading North American financial institution for over 30 years and enjoys substantial goodwill and reputation. The Respondent has created a likelihood of confusion with the Complainant and its trade marks by registering multiple domain names that comprise one or two-letter misspellings of "capital one shopping", which correspond to the Complainant's trade marks. This demonstrates that the Respondent is using the disputed domain names to confuse unsuspecting Internet users looking for the Complainant's services, and to mislead Internet users as to the source of the disputed domain names and websites. By creating this likelihood of confusion between the Complainant's trade marks and the disputed domain names, leading to misperceptions as to the source, sponsorship, affiliation, or endorsement of the disputed domain names, the Respondent has demonstrated a nefarious intent to capitalize on the fame and goodwill of the Complainant's trade marks in order to increase traffic to the disputed domain names' websites for the Respondent's own pecuniary gain, as evidenced by the presence of multiple PPC links on the Respondent's websites, some of which directly reference the Complainant.

There is no plausible good-faith reason or logic for the Respondent to have registered the disputed domain names. It is indicative of an intention to hold the disputed domain names for some future active use in a way which would be competitive with or otherwise detrimental to the Complainant.

The Respondent has engaged in a pattern of cyberquatting, having been named as respondent in a number of prior UDRP proceedings. The Respondent's use of a privacy service to mask his identity also serves as further evidence of bad faith registration and use of the disputed domain names.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

The language of the Registration Agreements for the disputed domain names is Chinese. The Complainant requested that the language of the proceeding be English for these main reasons:

- (i) The Complainant is unable to communicate in Chinese and a translation of the Complaint would unfairly disadvantage and burden the Complainant and delay the proceedings.
- (ii) The disputed domain names comprise Latin characters.
- (iii) The content of the web pages to which the disputed domain names resolve feature various phrases in the English language.
- (iv) The dominant portion of the disputed domain names, "Capital One", does not carry any specific meaning in the Chinese language.
- (v) To allow the Respondent to dictate the course of this matter and further burden the Complainant

would contravene the spirit of the UDRP and disadvantage the Complainant.

The Respondent did not comment on the language of the proceeding.

Paragraph 11(a) of the Rules provides that:

“Unless otherwise agreed by the Parties, or specified otherwise in the Registration Agreement, the language of the administrative proceeding shall be the language of the Registration Agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding.”

The intention of paragraph 11(a) is to allow panels a measure of flexibility and discretion to consider the entire circumstances of each case, to ensure fairness between the parties, while at the same time not undermining the mandate for the proceeding to be administered in an expeditious manner. (See section 4.5.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).) The relevant points of consideration would include the parties’ level of familiarity with the respective languages, the expenses to be incurred, the possibility of delay in the proceeding if translations are required, as well as the language of the domain names in dispute and of the resolving websites.

Having considered the relevant factors and interests of the respective Parties, the Panel determines that it would be appropriate for English be the language of the proceeding. The Panel is persuaded that the Respondent would not be prejudiced as he is probably familiar with and understands the English language, taking into account its selection of the language/script of the disputed domain names and of the parked pages. Additionally, the Panel notes from the evidence provided by the Complainant of the “Respondent’s pattern of cybersquatting” that the Respondent registered many other domain names which feature trade marks in the English language (and misspelt versions thereof). The Respondent had, moreover, been notified by the Center, in both Chinese and English languages, of the commencement of the proceeding, the language of the Registration Agreement, and deadline for filing a Response (in either Chinese or English). He therefore had ample opportunity to object and/or propose to submit his Response in Chinese, but he did not do so. In the absence of any objection and justification by the Respondent, the Panel does not find it procedurally efficient to have the Complainant translate the Complaint into Chinese. This would cause unnecessary delay in the proceeding.

## **6.2 Substantive Issues**

### **A. Identical or Confusingly Similar**

The Complainant has established it has rights in the CAPITAL ONE and CAPITAL ONE SHOPPING trade marks. The disputed domain names, apart from the disputed domain name <shoppingcapitalone.com>, comprise misspelt versions of the Complainant’s CAPITAL ONE SHOPPING trade mark. As stated in section 1.9 of the [WIPO Overview 3.0](#), “[a] domain name which consists of a common, obvious, or intentional misspelling of a trademark is considered by panels to be confusingly similar to the relevant mark for purposes of the first element”, and “examples of such typos include (i) adjacent keyboard letters, (ii) substitution of similar-appearing characters [...]”.

The disputed domain name <shoppingcapitalone.com> incorporates the Complainant’s CAPITAL ONE trade mark in its entirety, and the addition of the term “shopping” does not prevent a finding of confusing similarity. See section 1.8 of the [WIPO Overview 3.0](#).

The generic Top-Level Domain “.com” is a technical requirement for domain name registrations and does not have any impact on the issue of the identity or confusing similarity between the disputed domain names and the Complainant’s trade marks.

The Panel accordingly finds that the first element of paragraph 4(a) of the Policy has been satisfied.

## **B. Rights or Legitimate Interests**

The Panel finds that the Complainant has established a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain names. The Complainant's earlier and extensive use of the CAPITAL ONE and CAPITAL ONE SHOPPING trade marks, as well as earlier registrations of the CAPITAL ONE trade mark, predate the registration date of the disputed domain names. The Complainant did not license nor authorize the Respondent to use CAPITAL ONE and CAPITAL ONE SHOPPING as a trade mark or in a domain name. Neither is there any evidence that the Respondent is commonly known by the disputed domain names. The use of the disputed domain names which incorporate the Complainant's well-established trade marks for use in relation to parking pages with PPC links to, *inter alia*, "Capitaloneshopping" and "Capital One Coupon App" does not constitute a *bona fide* offering of goods or services within the meaning of paragraph 4(c)(i) of the Policy nor a legitimate noncommercial or fair use of the disputed domain names within the meaning of paragraph 4(c)(iii) of the Policy. The subject matter reflected on the parking pages correspond to and/or are related to the Complainant's <capitalone.com> and <capitaloneshopping.com> domain names. The Respondent's choice of the disputed domain names shows a clear intent to obtain an unfair commercial gain by misleading Internet users including those looking who may mistype the domain names when looking for the Complainant's official websites which operate under the domain names <capitalone.com> and <capitaloneshopping.com>.

Having established a *prima facie* case, the burden of production shifts to the Respondent to show that he has rights or legitimate interests in the disputed domain names. The Respondent did not file a Response in the present case to rebut the Complainant's assertions and evidence.

In the circumstances, the Panel concludes that the Respondent has no rights or legitimate interests in the disputed domain names.

The Panel therefore finds that the second element of paragraph 4(a) of the Policy has been satisfied.

## **C. Registered and Used in Bad Faith**

The Panel is persuaded in the circumstances of this case that the Respondent targeted the Complainant and its well-established CAPITAL ONE and CAPITAL ONE SHOPPING trade marks. There is no other reason for the Respondent to have registered the disputed domain names, all incorporating the CAPITAL ONE trade mark and misspelt versions of the CAPITAL ONE SHOPPING trade mark, except for the sole purpose of riding off the reputation and goodwill in, and creating confusion with, the Complainant's trade marks. This is all the more apparent from the fact that the Complainant owns and operates the domain names <capitalone.com> and <capitaloneshopping.com>.

"If [...] circumstances indicate that the respondent's intent in registering the disputed domain name was in fact to profit in some fashion from or otherwise exploit the complainant's trademark, panels will find bad faith on the part of the respondent. While panel assessment remains fact-specific, generally speaking such circumstances, alone or together, include: (i) the respondent's likely knowledge of the complainant's rights, (ii) the distinctiveness of the complainant's mark, (iii) a pattern of abusive registrations by the respondent, (iv) website content targeting the complainant's trademark, e.g., through links to the complainant's competitors, (v) threats to point or actually pointing the domain name to trademark-abusive content, (vi) threats to 'sell to the highest bidder' or otherwise transfer the domain name to a third party, (vii) failure of a respondent to present a credible evidence-backed rationale for registering the domain name, [...] Particularly where the domain name at issue is identical or confusingly similar to a highly distinctive or famous mark, panels have tended to view with a degree of skepticism a respondent defense that the domain name was merely registered for legitimate speculation (based for example on any claimed dictionary meaning) as opposed to targeting a specific brand owner." (See section 3.1.1 of the WIPO Overview3.0.)

The Panel finds that there has been bad faith registration and use. The facts and circumstances which support the finding include the following:

- (i) the high degree of distinctiveness and reputation of the Complainant's CAPITAL ONE and CAPITAL ONE SHOPPING trade marks;
- (ii) the Respondent's likely knowledge of the Complainant's rights in the CAPITAL ONE and CAPITAL ONE SHOPPING trade marks;
- (iii) the PPC links on the parking pages to which the disputed domain names resolve, which are related to the Complainant, its goods and services, and <capitalone.com> and <capitaloneshopping.com> domain names;
- (iv) the nature of the disputed domain names which either wholly incorporate misspelt versions of the CAPITAL ONE SHOPPING trade mark or the entire CAPITAL ONE trade mark, and PPC links to third-party websites;
- (v) the apparent pattern of cybersquatting conduct of the Respondent;
- (vi) the failure of the Respondent to submit a Response, or to provide any explanation for registering the disputed domain names; and
- (vii) the implausibility of any good-faith use to which the disputed domain names may be put.

It can be surmised that the Respondent fully appreciated the value associated with the CAPITAL ONE and CAPITAL ONE SHOPPING trade marks, which is why he registered the disputed domain names which either incorporate misspelt versions of the CAPITAL ONE SHOPPING trade mark or the entire CAPITAL ONE trade mark and which is closely similar to the Complainant's <capitalone.com> and <capitaloneshopping.com> domain names. He hoped to draw Internet traffic through typographical errors made by Internet users who may be searching for the Complainant's products or services. The Panel therefore concludes that the Respondent has registered and is using the disputed domain names in bad faith.

The Panel therefore finds that the third element of paragraph 4(a) of the Policy has been 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 names, <capitalloneshopping.com>, <capitalonedhopping.com>, <capitaloneshhopping.com>, <capitaloneshopoing.com>, <capitaloneshoppinh.com>, <capitalonesh0pping.com>, and <shoppingcapitalone.com>, be transferred to the Complainant.

*/Francine Tan/*

**Francine Tan**

Sole Panelist

Date: December 7, 2022