

ADMINISTRATIVE PANEL DECISION

MONABANQ v. 于青青 (yu qing qing)

Case No. D2023-5090

1. The Parties

The Complainant is MONABANQ, France, represented by MEYER & Partenaires, France.

The Respondent is 于青青 (yu qing qing), China.

2. The Domain Name and Registrar

The disputed domain name <monabanq.online> is registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on December 6, 2023. On December 7, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 8, 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 sent an email communication to the Complainant on December 11, 2023, providing the 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 December 18, 2023.

On December 11, 2023, the Center informed the parties in Chinese and English, that the language of the registration agreement for the disputed domain name is Chinese. The Respondent sent two emails to the Center in Chinese on December 11 and 19, 2023, in which it requested Chinese be the language of proceeding. On December 14, 2023, the Complainant requested an extension of five working days to comment on the language of the proceeding, as the Complainant did not understand the Respondent’s email in Chinese. On December 18, 2023, the Complainant requested English to be 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 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 December 21, 2023. In accordance with the Rules, paragraph 5, the due date for Response was January 10, 2024. The Respondent did not submit any formal response. Accordingly, the Center notified the commencement of panel appointment process on January 11, 2024.

The Center appointed Andrew Sim as the sole panelist in this matter on January 26, 2024. 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 a French banking company based in Villeneuve d'Ascq (France), and a subsidiary of the banking group CRÉDIT MUTUEL CIC. It offers online banking and insurance services to individuals and professionals.

The Complainant is the owner of a number of trademarks consisting the wording "MONABANQ" (the "Mark"), with registrations in various jurisdictions, including the following:

- (a) MONABANQ, French Trademark Registration No. 3419108 (word), registered on March 27, 2006;
- (b) MONABANQ, European Union Trademark Registration No. 18064036 (figurative), registered on November 6, 2019; and
- (c) MONABANQ.COM, International Registration No. 943266, registered on October 9, 2007.

The Complainant also operates a website located at "www.monabanq.com" and a mobile application named "Monabanq", which the Complainant uses to provide banking and insurance services to customers. It owns (by itself or through its subsidiary) a number of domain name registrations, including:

- (a) <monabanq.fr>, registered on March 24, 2006;
- (b) <monabanq.com>, registered on March 23, 2006; and
- (c) <monabanq.eu>, registered on April 7, 2006.

The disputed domain name was registered on November 14, 2023. At the time of the Complaint and this Decision, the disputed domain name redirects Internet users to a website operated by Dan.com which offers the disputed domain name for sale for USD 1,450.

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the disputed domain name.

Notably, the Complainant contends that (i) the disputed domain name is identical or confusingly similar to the Mark in which the Complainant has rights, as it consists entirely of the Mark and the generic Top-Level Domain (gTLD) ".online" should be disregarded for the purpose of comparing the disputed domain name and the Mark; (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name, and the Respondent's use of the disputed domain name does not relate to a bona fide offering of goods and services or for any legitimate noncommercial or fair purpose, as the Respondent is offering the disputed domain name for sale in the course of its business as a domainer; and (iii) the disputed domain name was registered and is being used in bad faith, as evidenced by the Respondent's registration of the disputed

domain name and use of the Mark, which is a well-known trademark, for commercial gain through offering it for sale at a disproportionate and excessive price.

B. Respondent

The Respondent did not reply to the Complainant's contentions, but sent two emails to the Center in Chinese on December 11 and 19, 2023 commenting on the language of proceeding.

6. Discussion and Findings

6.1 Preliminary Issue: Language of the Proceeding

The language of the Registration Agreement for the disputed domain name is Chinese. Pursuant to the Rules, paragraph 11(a), in the absence of an agreement between the parties, or unless specified otherwise in the registration agreement, the language of the administrative proceeding shall be the language of the registration agreement.

The Complaint was filed in English. The Complainant requested that the language of the proceeding be English for several reasons, including the fact that (i) the Complainant is based in France and has no knowledge of Chinese, such that requiring the Complainant to submit documents in Chinese would cause undue delay to the proceedings and place a financial burden on the Complainant; (ii) the Respondent should be assumed to understand English since the disputed domain name, as well as the thousands of other domain names that the Respondent has registered, contain Latin characters, and Dan.com, through which the Respondent offers the disputed domain name for sale, is an American provider of Internet which mainly provides services in English; and (iii) the Respondent is a professional domainer who has a pattern of bad faith registrations.

The Respondent requested that the language of the proceeding be Chinese on the grounds that (i) the language of the registration agreement is Chinese, and (ii) the Respondent's mother tongue is Chinese, so the use of Chinese ensures its effective participation in the proceeding.

In exercising its discretion to use a language other than that of the registration agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both parties, taking into account all relevant circumstances of the case, including matters such as the parties' ability to understand and use the proposed language, time and costs (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.5.1.

In this case, the Panel finds that the Respondent may be familiar with the English language while the Complainant may indeed be unduly disadvantaged by having to conduct the proceeding in Chinese. Further, the Panel notes that the Respondent was involved in another case: *Boehringer Ingelheim Pharma GmbH & Co KG v. 于青青 (yu qing qing)*, WIPO Case No. [D2023-4775](#), where the Respondent also requested that the language of proceeding be Chinese, and the Panel decided to accept all communications whether in Chinese or English without translation; nonetheless, the Respondent did not file any Response. Similarly, in this case, the Respondent could have filed a Response in Chinese, or requested extension of time for reviewing and translating the relevant documents, as the Complainant did, but has chosen not to do so.

In all the circumstances, the Panel determines under paragraph 11(a) of the Rules that the language of the proceeding shall be English.

6.2 Substantive Issues

A. Identical or Confusingly Similar

It is well accepted that the first element functions primarily as a standing requirement. 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. [WIPO Overview 3.0](#), section 1.7.

The Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the Mark is reproduced within the disputed domain name. Accordingly, the disputed domain name is identical to the Mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

A gTLD extension (".online") is added to the disputed domain name. However, as a standard requirement of domain name registration, the gTLD may be disregarded in the comparison between the disputed domain name and the Mark. Accordingly, ".online" is disregarded for the present purpose. [WIPO Overview 3.0](#), section 1.11.

The Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of circumstances in which the Respondent may demonstrate rights or legitimate interests in a disputed domain name.

Although 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 difficult 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 relevant evidence demonstrating rights or legitimate interests in the domain name (although the burden of proof always remains on the complainant). If the respondent fails to come forward with such relevant evidence, the complainant is deemed to have satisfied the second element. [WIPO Overview 3.0](#), section 2.1.

Having reviewed the available record, the Panel finds the Complainant has established a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name. The Respondent has not rebutted the Complainant's prima facie showing and has not come forward with any relevant evidence demonstrating rights or legitimate interests in the disputed domain name such as those enumerated in the Policy or otherwise.

The disputed domain name resolves to a website where the disputed domain name is offered for sale. The Panel does not find this a use in connection with bona fide offering of goods or services, nor is it a legitimate noncommercial or fair use.

The Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

The Panel notes that, for the purposes of paragraph 4(a)(iii) of the Policy, paragraph 4(b) of the Policy establishes circumstances, in particular, but without limitation, that, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith.

Noting that the Mark is highly specific and does not correspond to a dictionary term, the Respondent cannot credibly claim to have been unaware of the Mark, particularly when the Respondent is a domainer (as evidenced by, inter alia, the various domain names registered by the Respondent). In such cases, panels have been prepared to infer that the respondent knew, or should have known, that its registration would be identical or confusingly similar to a complainant's mark. [WIPO Overview 3.0](#), sections 3.2.2 and 3.2.3.

In the present case, the Panel notes that the disputed domain name resolves to a website where the disputed domain name is offered for sale at a price significantly higher than the price for registering an ordinary domain name. Together with the irresistible finding that the Respondent was or should have been aware of the Mark, this is indicative that the Respondent has registered the disputed 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 Mark, or to a competitor of the Complainant, for valuable consideration in excess of the Respondent's documented out-of-pocket costs directly related to the disputed domain name.

The Panel further notes that the Respondent appears to have a pattern of bad faith registration conduct. The Respondent has been named as the respondents in a number of previous UDRP cases in which the Respondent registered the disputed domain names which are identical to the complainants' famous trademarks for the purpose of resale, and the panels in those cases found that the disputed domain names were registered and used in bad faith. See, for example, *Algeco v. yu qing qing (于青青)*, WIPO Case No. [D2023-4849](#) and *Arcelormittal v. 于青青 (yu qing qing)*, WIPO Case No. [D2023-4651](#). [WIPO Overview 3.0](#), section 3.1.2.

The Panel finds that the Complainant has established the third element 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 name <monabanq.online> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: February 9, 2024