

## **ADMINISTRATIVE PANEL DECISION**

The Bank of New York Mellon v. Host Master, Transure Enterprise Ltd  
Case No. D2024-1269

### **1. The Parties**

The Complainant is The Bank of New York Mellon, United States of America (“United States”), represented by Dinsmore & Shohl LLP, United States.

The Respondent is Host Master, Transure Enterprise Ltd, United States.

### **2. The Domain Name and Registrar**

The disputed domain name <bnywealth.com> is registered with Above.com, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on March 25, 2024. On March 26, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On March 28, 2024, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (above\_privacy) and contact information in the Complaint. The Center sent an email communication to the Complainant on April 2, 2024, 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 on April 5, 2024.

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 of the Complaint, and the proceedings commenced on April 5, 2024. In accordance with the Rules, paragraph 5, the due date for Response was April 25, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on April 26, 2024.

The Center appointed William F. Hamilton as the sole panelist in this matter on May 2, 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 well-known leading global financial services and investments company.

The Complainant is one of the three oldest banking corporations in the United States and one of the oldest banks in the world. The estimated number of employees worldwide in 2023 for the Complainant was 53,400.

The Complainant has used the trademark BNY (the “Mark”) continuously since at least 2006.

Among other numerous trademark registrations for the Mark or incorporating the Mark, the Complainant owns United States Patent and Trademark Office Registration No. 3,117,825 dated July 18, 2006.

The disputed domain name was registered on September 17, 2018. The Complainant claims that the disputed domain name dynamically redirects to random websites some of which are popular, well-known websites while others are blocked or non-active. At different times, the disputed domain name resolved to a parked page.

#### **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. The Complainant asserts the disputed domain name is confusingly similar to the Mark because the disputed domain name is identical to the Mark except the disputed domain name adds to the Mark the term “wealth.” The Complainant asserts that the Complainant never authorized the Respondent to use the disputed domain name, that the Respondent is not generally known by the disputed domain name, never operated a business under the disputed domain name, and never engaged in any bona fide commercial activity in connection with the disputed domain name. The Complainant asserts that the Respondent knew of the Mark when registering the disputed domain name and that the Respondent has utilized the disputed domain name to redirect users to various, random websites.

##### **B. Respondent**

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

#### **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, to succeed the Complainant must satisfy the Panel 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 was registered and is being used in bad faith.

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

The Complainant has shown rights in the Mark for the purposes of the Policy by virtue of the Mark's registration. [WIPO Overview 3.0](#), section 1.2.1.

The disputed domain name's only deviation from the unique Mark is that the disputed domain name adds the term "wealth" to the Mark. This alteration between the Mark and the disputed domain name does not prevent a finding of confusing similarity between the disputed domain name and the Mark. The Mark is clearly recognizable in the disputed domain name. [WIPO Overview 3.0](#), sections 1.7 and 1.8.

The Panel finds that 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.

Moreover, the Complainant claims that the disputed domain name redirected to various websites unrelated to the Complainant. At different times, the disputed domain resolved to a parking page. Such use if the disputed domain name does not establish any rights or legitimate interests in the disputed domain name.

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.

It is beyond any reasonable doubt that the Respondent was aware of the Mark when registering and using the disputed domain name. The fame of the Mark, in conjunction with the striking similarity of the disputed domain name to the Mark, compels such a conclusion. The selection of the term "wealth" which is attached to the Mark directly related to the Complainant's well-known business services. The redirection of the disputed domain name to random websites creates the false impression that these websites are somehow

related to, affiliated with, or endorsed by the Complainant. Such circumstances raise immediate concerns of actual and future potential abuse of the disputed domain name. Further, the Respondent has been cited as a respondent in more than 70 UDRP cases and appears to be serial cybersquatter.

Lastly, the non-use of the disputed domain name does not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3.

Having reviewed the record, the Panel finds the Respondent's registration and use of the disputed domain name constitutes bad faith under the Policy.

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

## **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 <bnywealth.com> be transferred to the Complainant.

*/William F. Hamilton/*

**William F. Hamilton**

Sole Panelist

Date: May 16, 2024