

ADMINISTRATIVE PANEL DECISION

Oney Bank v. Huy Ho, bhv.edu
Case No. D2024-3421

1. The Parties

The Complainant is Oney Bank, France, represented by SafeBrands, France.

The Respondent is Huy Ho, bhv.edu, Viet Nam.

2. The Domain Name and Registrar

The disputed domain name <1oney.com> is registered with Squarespace Domains II LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 21, 2024. On August 21, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 21, 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 (REDACTED FOR PRIVACY, bhv.edu) and contact information in the Complaint. The Center sent an email communication to the Complainant on August 22, 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 August 22, 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 September 6, 2024. In accordance with the Rules, paragraph 5, the due date for Response was September 26, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 30, 2024.

The Center appointed Reyes Campello Estebaranz as the sole panelist in this matter on October 4, 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 operates since 1983 in the banking business, specialized in digital banking services related to consumer credit, electronic payments, and payment card management. It is part of the banking group BPCE and the Auchan Holding, and, currently, the Complainant operates internationally in 10 countries, through 37,000 partners or retailers, and has over 5 million customers. The Panel, under its general powers, has consulted the Complainant's corporate website at "www.oney.com".

The Complainant owns various trademark registrations for its ONEY brand, including International Trademark Registration No. 865742, ONEY, word, registered on August 11, 2005, in Classes 9, 36, and 38; International Trademark Registration No. 947985, ONEY, word, registered on July 11, 2007, in Classes 9, 36, and 38, (which designates, among other jurisdictions Viet Nam); and International Trademark Registration No. 1043336, ONEY, figurative, registered on April 9, 2010, in Classes 9, 35, 36, 38, 39, 41, and 42, (collectively hereinafter referred as the "ONEY mark").

Prior decisions under the Policy have recognized the international reputation of the ONEY mark with its sector and in the digital space.¹

The Complainant also holds numerous domain names corresponding to its ONEY mark, including <oney.com> (registered on October 12, 2003), which resolves to its corporate website.

The disputed domain name was registered on March 13, 2024, and it is currently apparently inactive resolving to an Internet browser error message that indicates, "This site can't be reached".

On March 22, 2024, the Complainant sent a cease-and-desist letter to the privacy services used by the Respondent, and, per the Complaint, after the Registrar verification, the Complainant further sent an email communication to the Respondent; however, the Respondent did not replied to these communications.

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 the disputed domain name is confusingly similar to the ONEY mark. It incorporates this mark in its entirety preceded by the numeral "1", which does not avoid the confusing similarity.

The Complainant further contends the Respondent has no rights or legitimate interests in the disputed domain name, as the term "oney" is a distinctive or fanciful term, not included in the dictionary with no particular meaning, the Respondent is not commonly known by the term "1oney" and has no trademark rights over this term. The disputed domain name is inactive, and, therefore, not used in connection with any bona fide offering of goods or services or to any noncommercial or fair use.

The Complainant further contends the disputed domain name was registered and is being used in bad faith. The ONEY mark has been continually used over the years (since 1983), and it is highly distinctive and internationally reputed. A simple search over the Internet reveals the Complainant's bank and its ONEY mark, so the Respondent could not ignore them when it registered the disputed domain name. In the circumstances of this case, the passive holding of the disputed domain name does not prevent a finding of bad faith. The Respondent's lack of response to the Complainant's communications corroborates its bad faith.

¹See, e.g., *Oney Bank v. 杨智超 (Zhi Chao Yang)*, WIPO Case No. [D2023-0968](#); and *ONEY Bank v. SuperPrivacy Service LTD c/o Dynadot / ekin sarimsak*, WIPO Case No. [D2022-3127](#).

B. Respondent

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

6. Discussion and Findings

The Complainant has made the relevant assertions as required by the Policy and the dispute is properly within the scope of the Policy. The Panel has authority to decide the dispute examining the three elements in paragraph 4(a) of the Policy, taking into consideration all of the relevant evidence, annexed material and allegations, and performing some limited independent research under the general powers of the Panel articulated, inter alia, in paragraph 10 of the Rules.

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 respect of a trademark or service mark for the purposes of the Policy, namely the ONEY mark. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of the mark is reproduced within the disputed domain name with the addition of a numeral "1" before the mark. The Panel finds the mark is recognizable within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of other terms here, the number "1", may bear on assessment of the second and third elements, the Panel finds the addition of such element does not prevent a finding of confusing similarity between the disputed domain name and the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

Therefore, 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 Panel further notes the Respondent's name, provided by the Registrar verification, does not share any similarities with the terms "oney" or "1oney", and these terms cannot be the abbreviation of the Respondent's name.

The Panel further notes that the term "oney" is a gender-neutral name of Irish origin that it is not included as a word in any dictionary, and, therefore, has no particular meaning. Some English dictionaries only include "oney" as a representation of the pronunciation of honey by a speaker whose dialect lacks the voiceless glottal fricative or transition.²

According to the Complainant's allegations and supporting evidence, there are no registered trademarks for the term "1oney" owned by the Respondent. The Panel, under its general powers, has further corroborated through a search over the Global Brand Database, the Respondent owns no trademark rights over the terms "oney" or "1oney".

The Panel further notes the disputed domain name is apparently inactive, as it resolves to an Internet browser error message indicating, "This site can't be reached". The Panel has further corroborated no website is archive for the disputed domain name at the Internet archive WayBackMachine.

Accordingly, the Panel finds nothing in the record or in its assessment of this case indicates the existence of any rights or legitimate interests on the Respondent, and the composition of the disputed domain name indicates targeting of the Complainant and of its reputed ONEY mark and generates confusion.

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.

In the present case, the Panel notes that the ONEY mark is reputed within its sector, highly distinctive and internationally used over more than 35 years. The Panel has further corroborated that, as alleged by the Complainant, any search over the Internet reveals the Complainant's bank and its trademark.

The Panel thus finds that the Respondent likely knew of the Complainant and its trademark and deliberately registered the disputed domain name in bad faith.

The Panel further notes the composition of the disputed domain name confusingly similar to the ONEY mark, indicates, in a balance of probabilities, a targeting of the Complainant. The Panel finds the inclusion of the numeral "1" before the mark may go unnoticed or confused with a letter "l" or "i", especially by non-Latin alphabet users, such a Vietnamese, and signals, in the Panel's view, to an intention on the part of the Respondent to confuse Internet users seeking or expecting the Complainant. The circumstances of this case, on a balance of probabilities, lead to this conclusion. Particularly, (i) the reputation and distinctiveness of the ONEY mark; (ii) the inclusion of this mark identically in its entirety in the disputed domain name; (iii) the lack of use of the disputed domain name; and (iv) the lack of any apparent rights or legitimate interests on the Respondent.

The Panel further notes the Respondent has not come forward and has not provided any evidence that may justify any rights or legitimate interests, nor has the Respondent rebutted the Complainant's allegations of bad faith.

Panels have found that the non-use of a domain name (including a blank or "coming soon" page) would not prevent a finding of bad faith under the doctrine of passive holding. [WIPO Overview 3.0](#), section 3.3. Having reviewed the available record, the Panel notes the distinctiveness and reputation of the Complainant's

²See, e.g., <https://www.yourdictionary.com/oney>.

trademark, and the composition of the disputed domain name, and finds that in the circumstances of this case the passive holding of the disputed domain name does not prevent a finding of bad faith under the Policy.

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 <1oney.com> be transferred to the Complainant.

/Reyes Campello Estebaranz/

Reyes Campello Estebaranz

Sole Panelist

Date: October 14, 2024