

ADMINISTRATIVE PANEL DECISION

Olinda v. Braham Sofian
Case No. D2024-3888

1. The Parties

The Complainant is Olinda, France, represented by Blanche Avocats, France.

The Respondent is Braham Sofian, France.

2. The Domain Name and Registrar

The disputed domain name <qonto.website> is registered with Hostinger Operations, UAB (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 24, 2024. On September 24, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On September 25, 2024, 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 verified that the 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 30, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 20, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 25, 2024.

The Center appointed Fabrice Bircker as the sole panelist in this matter on November 1, 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, Olinda, is a French Fintech company providing, under the QONTO brand, online account and payment services along with financial and accounting management tools.

According to uncontested elements, the Complainant has more than 500.000 clients and is valued at EUR 4.4 billion.

The Complainant's activities are notably protected through the following trademarks registrations:

QONTO, French trademark No. 4297016 filed on September 6, 2016, registered on February 10, 2017, and designating products and services of classes 9, 36 and 42,

QONTO, International trademark registration No. 1372018 registered on March 3, 2017, designating among others Japan, the United States of America and the European Union, and covering products and services of classes 36 and 42.

The online presence of the Complainant is notably ensured by the <qonto.com> domain name, which was registered on December 10, 2014, and which directs to its official website.

The disputed domain name, <qonto.website>, was registered on December 23, 2023.

It does not resolve to an active website and does not seem to have been used according to the case file.

Very little is known about the Respondent, except that, based on the information disclosed by the Registrar, he is apparently located in France.

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 identical to its trademark.

Besides, the Complainant argues that the Respondent has no rights or legitimate interests in respect with the disputed domain name, in substance because:

- the Respondent does not own any QONTO trademark,
- the Respondent has no link whatsoever with the Complainant and is totally unknown by the latter,
- the Complainant did not grant any authorization to the Respondent to register the disputed domain name,
- there is no legitimate noncommercial or fair use of the disputed domain name, as the Respondent deliberately registered a highly confusing domain name to falsely suggest affiliation with the Complainant,
- the registration of the disputed domain name appears to be part of a fraudulent phishing system, considering the nature of the Complainant's activity.

At last, the Complainant contends that the disputed domain name has been registered and is being used in bad faith, notably because:

- as the Complainant is well-known since its creation in 2016, the registration of the disputed domain name cannot be a coincidence,

- when registering the disputed domain name, the Respondent concealed his identity through a privacy service and has provided incorrect contact details.

B. Respondent

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

6. Discussion and Findings

Pursuant to paragraph 4(a) of the Policy, in order to obtain a transfer of the disputed domain name, the Complainant must establish each of the following three elements:

- i. the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- ii. the Respondent has no rights or legitimate interests in respect of the disputed domain name; and
- iii. the disputed domain name has been registered and is being used in bad faith.

Besides, paragraph 15(a) of the Rules provides that “[a] Panel shall decide a complaint on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable”.

Paragraphs 10(b) and 10(d) of the Rules also provide that “[i]n all cases, the Panel shall ensure that the Parties are treated with equality and that each Party is given a fair opportunity to present its case” and that “[t]he Panel shall determine the admissibility, relevance, materiality and weight of the evidence”.

Besides, the Respondent's failure to reply to the Complainant's contentions does not automatically result in a decision in favor of the Complainant, although the Panel is entitled to draw appropriate inferences therefrom, in accordance with paragraph 14(b) of the Rules (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), section 4.3). Taking the foregoing provisions into consideration the Panel finds as follows:

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.

Based on the available record (Annex 5 of the Complaint), the Panel finds that 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 QONTO 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.

Regarding the generic Top-Level Domain (“gTLD”) “.website” in the disputed domain name, it is well established that a gTLD does not generally affect the assessment of a domain name for the purpose of determining identity or confusingly similarity. [WIPO Overview 3.0](#), section 1.11.1.

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.

Indeed, the Complainant contends that it has not given its consent to the Respondent to use its QONTO trademark in a domain name registration or in any other manner.

Besides, there is nothing in the record of the case likely to indicate that the Respondent may be commonly known by the disputed domain name.

Furthermore, the disputed domain name is not used (it does not resolve to an active website) and nothing in the case file suggests that it may have been used or that the Respondent has made preparations to use it for legitimate purposes.

At last, the Respondent has not replied to the Complainant’s contentions.

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

C. Registered and Used in Bad Faith

Paragraph 4(b) of the Policy sets out a list of non-exhaustive circumstances that may indicate that a domain name was registered and used in bad faith, but other circumstances may be relevant in assessing whether a respondent’s registration and use of a domain name is in bad faith. [WIPO Overview 3.0](#), section 3.2.1.

As far as bad faith registration is concerned, the Panel finds that:

- the QONTO trademark registrations predate the registration of the disputed domain name by years,
- the QONTO trademark is intrinsically distinctive and well-known on the market,
- the disputed domain name identically reproduces the QONTO trademark,
- the Respondent appears to be located in France, where the Complainant originates and is particularly active,
- when registering the disputed domain name, the Respondent has not only used a privacy service to conceal his identity, but has also provided the Registrar with obvious inaccurate contact details,
- the Respondent has not put forward any argument intended to establish his good faith.

In these circumstances, the Panel has no doubt that the Respondent was more than likely well aware of the Complainant’s rights when he registered the disputed domain name.

As far as the use of the disputed domain name, the Complainant contends that it has been registered for fraudulent phishing purposes.

However, there is no evidence of any use of the disputed domain in the case file and it is constant that “[t]he applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence” (...). Under this standard, a party should demonstrate to a panel’s satisfaction that it is more likely than not that a claimed fact is true.” As a consequence, “conclusory statements unsupported by evidence will normally be insufficient to prove a party’s case”. [WIPO Overview 3.0](#), section 4.2.

This being said, Panels have found that the non-use of a domain name 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 of the Complainant’s trademark which consists in a coined word,
- the fact that the Complainant’s trademark is well-known on the market,
- the composition of the disputed domain name in as far as it can impersonate the Complainant,
- the clear absence of rights of the Respondent,
- the fact that the Respondent registered the disputed domain name both using a privacy protection service and communicating inaccurate contact details,
- the failure of the Respondent to submit a response,
- the fact that the disputed domain name is in the hands of the Respondent constitutes an unbearable threat hanging over the head of the Complainant, especially in light of the fact that fraudulent use of domain names and emails are particularly prevalent in the field of online banking and financing.

As a consequence, 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 <qonto.website> be transferred to the Complainant.

/Fabrice Bircker/

Fabrice Bircker

Sole Panelist

Date: November 5, 2024