

ADMINISTRATIVE PANEL DECISION

Coinbase, Inc. v. Qiyu Zhuang
Case No. DIO2022-0003

1. The Parties

The Complainant is Coinbase, Inc., United States of America (“United States”), represented Kelly IP, LLP, United States.

The Respondent is Qiyu Zhuang, China, represented by Huijie Tian, China.

2. The Domain Name and Registrar

The disputed domain name <coinbase.io> is registered with Gandi SAS (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 10, 2022. On February 10, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 11, 2022, 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 .IO Domain Name Dispute Resolution Policy (the “Policy”), the Rules for .IO Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for .IO 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 proceeding commenced on February 14, 2022. In accordance with the Rules, paragraph 5, the due date for the Response was March 6, 2022. The Response was filed with the Center on March 4, 2022.

The Center appointed Sebastian M.W. Hughes as the sole panelist in this matter on March 9, 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.

Following the appointment of the Panel, the Complainant submitted an unsolicited supplemental Reply, on March 9, 2022; and the Respondent submitted an unsolicited supplemental Reply, on March 11, 2022.

The Respondent submitted a further supplemental filing on March 18, 2022.

On March 28, 2022, the Center notified the Parties that, in light of the Parties' supplemental filings, the Decision due date would be extended until at least April 1, 2022.

4. Factual Background

A. Complainant

The Complainant is a company incorporated in the State of Delaware in the United States, and a leading provider of cryptocurrency related services, since 2012, under the trade mark COINBASE (the "Trade Mark").

The Complainant is the owner of registrations for the Trade Mark, including United States registration No. 4567878, with a registration date of July 15, 2014.

The Complainant advertises and offers its goods and services under the Trade Mark via its website located at the domain name <coinbase.com>, registered and used since May 2012, and via its apps for iOS and Android.

The Complainant has approximately 73,000,000 verified retail users and 10,000 institutional investors in more than 100 countries. The Complainant's Twitter account has approximately 4,700,000 followers, its Facebook page has more than 388,000 followers, its Instagram account has approximately 348,000 followers, and its Reddit page has approximately 195,000 members.

B. Respondent

The Respondent is apparently an individual resident in China.

C. The Disputed Domain Name

The disputed domain name was first registered on February 20, 2017.

It was purchased by and registered in the name of the Respondent on May 19, 2019.

D. Use of the Disputed Domain Name

The disputed domain name has previously been resolved to an English language pay-per-click ("PPC") website providing sponsored links to cryptocurrency related websites, including websites relating to the Complainant's competitors, and offering the disputed domain name for sale (the "Website").

As at the date of this Decision, the disputed domain name is not resolved to an active website.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is identical or confusingly similar to the Trade Mark; the Respondent has no rights or legitimate interests in respect of the disputed domain name; and the disputed domain name has been registered and is being used in bad faith.

B. Respondent

The Respondent contends that he has rights and legitimate interest in the disputed domain name; and the disputed domain name has not been registered and used in bad faith.

6. Discussion and Findings

6.1 Supplemental Filings

Panels have sole discretion, under paragraphs 10 and 12 of the Rules, whether to accept an unsolicited supplemental filing from either party, bearing in mind the need for procedural efficiency, and the obligation to treat each party with equality and ensure that each party has a fair opportunity to present its case. The party submitting its filing would normally need to show its relevance to the case and explain why it was unable to provide that information in the complaint or response (for example, owing to some exceptional circumstance).

Paragraph 12 of the Rules expressly provides that it is for the panel to request, in its sole discretion, any further statements or documents from the parties it may deem necessary to decide the case. Unsolicited supplemental filings are generally discouraged, unless specifically requested by the panel (see WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 4.6).

It is not usual practice, absent special circumstances and a satisfactory explanation from the party seeking to file supplementary submissions, for UDRP panels to allow reply or sur-reply submissions.

The Panel considers the following factors are relevant to its determination as to whether or not to allow the Parties' supplemental Replies:

- (i) the Complainant contends it has filed its Reply in order to address certain evidence relied upon by the Respondent in the Response, of which it was unaware at the time of filing the Complaint;
- (ii) the Respondent does not object to the filing of the Complainant's Reply and instead seeks to rely upon his own Reply;
- (iii) the Complainant does not object to the Respondent's filing of his Reply;
- (iv) both Parties have been given a fair opportunity to file Reply submissions; and
- (v) the Panel considers that in all the circumstances it is necessary for the Panel to consider the Parties' Reply submissions and evidence in order to fairly and impartially determine this proceeding.

In all the circumstances, the Panel therefore determines that it will admit the Parties' supplemental Reply submissions.

The Respondent's further supplemental filing seeks to place before the Panel a recent decision issued in his favour by the FORUM, on March 17, 2022, in proceedings commenced against him by the Complainant herein, in relation to the domain name <coinbase.info>.

The Complainant does not object to the Respondent's supplemental filing. The Panel notes also that the Complainant was represented by the same representative law firm in the <coinbase.info> proceeding. In the circumstances, the Panel therefore determines that it will admit the Respondent's further supplemental filing.

6.2. Substantive Elements of the Policy

The Complainant must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail.

A. Identical or Confusingly Similar

The Respondent did not make any submissions to address the required test under the first element in paragraph 4(a) of the Policy – namely, whether the disputed domain name is confusingly similar or identical to a trade mark or service mark in respect of which the Complainant has rights. The Respondent's submissions under the first element instead focussed on the Respondent's asserted rights and legitimate interests in the disputed domain name.

The Panel finds that the Complainant has rights in the Trade Mark acquired through use and registration.

Disregarding the country code Top-Level Domain ("ccTLD") ".io", the disputed domain name is identical to the Trade Mark.

The Panel therefore finds that the disputed domain name is identical to the Trade Mark.

B. Rights or Legitimate Interests

Paragraph 4(c) of the Policy provides a list of non-exhaustive circumstances any of which is sufficient to demonstrate that a respondent has rights or legitimate interests in a disputed domain name:

- (i) before any notice to the respondent of the dispute, the respondent's use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services; or
- (ii) the respondent (as an individual, business, or other organization) has been commonly known by the disputed domain name even if the respondent has acquired no trade mark or service mark rights; or
- (iii) the respondent is making a legitimate noncommercial or fair use of the disputed domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trade mark or service mark at issue.

The Complainant has not authorised, licensed, or permitted the Respondent to register or use the disputed domain name or to use the Trade Mark. The Panel finds on the record that there is therefore a *prima facie* case that the Respondent has no rights or legitimate interests in the disputed domain name, and the burden is thus on the Respondent to produce evidence to rebut this presumption.

The Respondent initially claimed in the Response to have been conducting, since July 2012, a business of trading in traditional coins, artwork, and collectibles in Mainland China under the name "币库 COINBASE studio". The Respondent also claimed to have signed contracts with customers in the pawn industry, since July 2012, to provide business consulting services such as the identification and appraisal of traditional coin artwork, but did not place copies of any such contracts into evidence.

The Respondent relied upon the following evidence:

- (i) a business consulting agreement signed by the Respondent with an individual in July 2012, whereby the Respondent agreed to provide business consulting services relating to coins and other artwork;
- (ii) copies of trade mark registrations in China in Class 38 and Class 42 for the trade mark COINBASE registered by a company incorporated in China, Shanghai Biku Technology Co Ltd, in 2014;
- (iii) copies of English language "letters of attorney" bearing the company seal of Shanghai Biku Technology Limited and authorizing the Respondent to use its trade marks for a 10 year period from 2014 to 2024;

- (iv) undated screenshots from his WeChat and Taobao accounts displaying traditional Chinese coins for sale; and
- (v) a purchase agreement showing that he purchased the disputed domain name, for a price of USD 1,500, from an individual with an address in the Ukraine, on May 19, 2019.

The Respondent also asserted, in the Response, that “when a Chinese natural person is transferred a trade mark, he can only apply...” in the name of a commercial enterprise, so for this reason the Respondent applied for registration of Shanghai Biku Technology Limited, a company of which he is the legal representative, in July 2019.

The Respondent also contended that, after he purchased the disputed domain name in 2019, he intended to build a website for business requirements, but was unable to do so due to the policy of the Ministry of Industry and Information Technology, which has not approved the establishment of websites using the ccTLD “.io”. The Respondent also submitted that the Website was set up by the disputed domain name’s previous owner and that, due to lack of technical ability and experience, after his purchase of the disputed domain name, he only changed the Registrant details and not the DNS server.

The Complainant in its supplemental Reply submitted that:

- (i) the WeChat screenshots relied upon by the Respondent show that he has registered and used the domain name <coinbase24.com> in respect of a website providing information and news in the crypto industry under the names “Coinbase” and “币硬 COINBASE”;
- (ii) the 2019 business registration of Shanghai Biku Technology Ltd in China does not relate to appraisal and trading of traditional coins and artworks. Instead, Shanghai Biku’s registration confirms its ownership of the “www.coinbase24.com” website, and identifies a second website located at the domain name <hashbase.com> advertising mining services for the crypto currencies Bitcoin and Ethereum, stating that it has server farms in the United States, Canada, and China, and listing a Hong Kong address; and
- (iii) the business activities of Shanghai Biku Technology Ltd in its business registration, and the services for its trade mark registrations in China, do not relate at all to identification, appraisal and trading of traditional coins and artwork, and are more akin to cryptocurrency related services.

The Respondent in his supplemental Reply asserted that:

- (i) he has been using the website at <coinbase24.com> to write information articles about blockchain, not in relation to the main business of the Complainant, namely virtual currency trading;
- (ii) he began operating <hashbase.com> in 2021, in relation to a bitcoin mining business, involving computer hardware facilities for bitcoin mining, and there can therefore be no confusion between this business and the Complainant’s business; and
- (iii) Shanghai Biku Technology Ltd has applied (in 2020) for registration in China of the trade mark CONINBASE in Class 36, in relation to coin appraisal services.

The Panel considers that the Respondent’s initial contentions in the Response, that he has been operating in a traditional coin appraisal business that is totally different from the services in respect of which the Complainant has used its Trade Mark, do not sit well with his later acceptance, when confronted with the evidence in the Complainant’s Reply, that both he and his company, Shanghai Biku Technology Ltd, have registered and used other domain names in relation to cryptocurrency related business.

The Panel does not agree with the Respondent’s submissions in this regard that the blockchain and bitcoin

mining services provided under those domain names are different to the Complainant's wide range of cryptocurrency related services offered under the Trade Mark.

Although it is not necessary or appropriate for the Panel to make any determination in this regard in order to fairly decide this proceeding (and the Panel declines to make any findings in this regard), the Panel is also not convinced by the Respondent's assertion that he has been prevented from operating an active website using the disputed domain name by the Ministry of Industry and Information Technology. Even if this is the case, the Panel notes that the undated screenshots of WeChat and Taobao pages show *de minimis* use – specifically, his WeChat messaging account has a mere 14 posts and 1 follower, and his "Taobao.com" page shows no products offered and a mere 13 photos of traditional coins marked as sold.

The Panel also does not accept the Respondent's submissions that natural persons are not permitted to apply for trade marks that have been transferred in China, but, again, does not consider it necessary or appropriate to make any findings in this regard.

The Respondent relies upon a one page Consulting Business Agreement signed with an individual in 2012 in respect of coin appraisal services for an individual operating in the pawn industry, but does not otherwise provide any evidence to demonstrate that such business has in fact been taking place, other than the limited messaging service screenshots referred to above. The Respondent has not otherwise provided any evidence of his traditional coin and artwork appraisal and trading business which he claims to have been conducting since 2012.

The Respondent also relies upon two trade mark registrations in China in the name of Shanghai Biku Technology Limited in Classes 38 and 42, and Letters of Attorney authorizing him personally to use these marks, however (i) these registrations cover services more akin to the cryptocurrency services offered by the Complainant under the Trade Mark – not the asserted traditional coin appraisal services relied upon by the Respondent in this proceeding; and (ii) there is insufficient evidence to demonstrate that the Respondent has in fact been conducting a genuine traditional coin appraisal business under these marks. In all the circumstances, the Panel finds that the Respondent has failed to provide sufficient evidence to show that he has acquired any trade mark rights in respect of the disputed domain name or that the disputed domain name has been used in connection with a *bona fide* offering of goods or services.

To the contrary, the disputed domain name has previously been resolved to the Website, containing pay-per-click links to websites relating to cryptocurrency services, including those of the Complainant's competitors, for commercial gain; and offering the disputed domain name for sale. In this regard it is well-established, for the purposes of the Policy, that registrants are responsible for the content of websites to which their domain names have been directed, even websites containing automatically generated content.

The Panel notes also that the fact the disputed domain name is, following the filing of the Complaint, no longer resolved to an active website is not supportive of the rights or legitimate interests asserted by the Respondent.

There has been no evidence adduced to show that the Respondent has been commonly known by the disputed domain name; and there has been no evidence adduced to show that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name.

In addition, the panel notes that ".io" is the ccTLD for the British Ocean Territory, but there is no evidence before the Panel to suggest that the Respondent, a Chinese national, has anything to do this.

Furthermore, insofar as the ".io" ccTLD has in recent years been used by technology, gaming and start-up firms, the Panel considers that such firms have nothing in common with coin trading and more in common with cryptocurrency related services.

The Panel finds that the Respondent has failed to produce sufficient evidence to rebut the Complainant's *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The

Panel therefore finds that the Respondent lacks rights or legitimate interests in the disputed domain name.

The Panel notes the finding in the recent <coinbase.info> decision that the Respondent has rights or legitimate interests in the <coinbase.info> domain name. It is however well-established that while consistency is strived for, Panels in UDRP proceedings are not strictly bound by findings in prior decisions (even those involving the same parties); and moreover the evidence relied upon by the parties in the <coinbase.info> proceeding is not before the Panel in the present proceeding.

C. Registered and Used in Bad Faith

The Respondent asserted in the Response that he reasonably purchased the disputed domain name for business requirements, and that he has been engaged since 2012 in business consultation on the identification and valuation of coins and artwork in China.

For the reasons set out in Section B. above, the Panel is not convinced by the Respondent's contentions in this regard. In light of the absence of evidence to demonstrate that the Respondent has in fact been conducting such a business since 2012; and the Respondent's operation, through his company, of websites that do operate in the cryptocurrency field (evidence which was not disclosed by the Respondent in the Response), the Panel concludes that the Respondent targeted the Complainant and its Trade Mark at the time of his registration of the disputed domain name.

For all the foregoing reasons, the Panel concludes that the disputed domain name has been registered and is being used in bad faith.

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 <coinbase.io> be transferred to the Complainant.

/Sebastian M.W. Hughes/

Sebastian M.W. Hughes

Sole Panelist

Dated: April 6, 2022