

## **ADMINISTRATIVE PANEL DECISION**

The Bank of New York Mellon v. Mac Trump  
Case No. D2024-4100

### **1. The Parties**

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

The Respondent is Mac Trump, United Kingdom.

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

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

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on October 7, 2024. On October 7, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On October 7, 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 (Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on October 8, 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 amendment to the Complaint on October 14, 2024.

The Center verified that the Complaint together with the amendment to 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 October 14, 2024. In accordance with the Rules, paragraph 5, the due date for Response was November 3, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 5, 2024.

The Center appointed Tobias Malte Müller as the sole panelist in this matter on November 11, 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**

It results from the Complainant's undisputed allegations that the Complainant is a leading global financial services and investments company that helps its clients manage and service their financial assets through the investment lifecycle. The estimated number of employees worldwide as of May 2024 for the Complainant was approximately 54,000 across six continents.

The Complainant is the registered owner of many trademarks for BNY MELLON, e.g., US Trademark Registration No. 3,585,488 BNY MELLON registered on March 10, 2009, for services in classes 35 and 36.

In addition, the Complainant uses the domain names <bny.com> (created on March 10, 1995), and <bnymellon.com> to promote the company's banking, financial, and investment management services.

The disputed domain name was registered on June 10, 2024. Furthermore, the undisputed evidence provided by the Complainant proves that the disputed domain name resolved to website, displaying the Complainant's logo and other trade dress and replicating content that at one time appeared on the Complainant's site and purportedly offering the Complainant's services.

#### **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,

(1) That the disputed domain name is confusingly similar to the Complainant's mark since it wholly encompasses the Complainant's BNY MELLON trademark, with the addition of the term "us", which is an acronym for "United States". The addition of the generic wording "us" to the BNY MELLON trademark, along with the generic Top-Level domain ("gTLD") ".com." does nothing to distinguish the disputed domain name;

(2) That the Respondent has no rights or legitimate interests in the disputed domain name. According to the Complainant, the Respondent is not commonly known by the disputed domain name. In addition, it has never assigned, sold, or transferred any rights in any of its marks to the Respondent (which has no legal relationship with the Complainant) and has not granted the Respondent permission to use or register any of its marks as a domain name. Instead, the Respondent is using the disputed domain name to resolve to a virtual copy of the Complainant's official "www.bny.com" website. The content currently displayed on the Respondent's website - including the Complainant's logo and other trade dress - may include elements that are a little outdated, but that content does replicate content that at one time appeared on the Respondent's site. Use of a domain name to imitate or impersonate the owner of a mark does not give rise to any rights or legitimate interests in the domain name. Moreover, the Respondent is using the disputed domain name in connection with a website that is set up to collect personal information from users. As part of its copycat content, the website associated with the disputed domain name contains several "Contact Us" pages inviting users to submit personal contact information, including name, phone numbers, and email addresses. This essentially creates (or creates the potential for) a fraudulent phishing scheme and in any event constitutes an illegitimate use of the disputed domain name;

(3) That the disputed domain name was registered and is being used in bad faith. According to the Complainant, this contention is supported by (a) the fact that the Respondent almost certainly had actual knowledge of the Complainant's rights in the trademark at the time he registered the disputed domain name; (b) the fact that the disputed domain name resolves to a virtual copy of the Complainant's official web site, which creates a clear likelihood of confusion with the Complainant's trademark; and (c) the Respondent's use of a privacy protection service in the registration of the disputed domain name in order to conceal his/her identity.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 15(a) of the Rules instructs this Panel to "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". Paragraph 4(a) of the Policy requires a complainant to prove each of the following three elements in order to obtain an order that each disputed domain name be transferred or cancelled:

- (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 has been registered and is being used in bad faith.

The Panel will therefore proceed to analyze whether the three elements of paragraph 4(a) of the Policy are satisfied.

### **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, [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 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, "us", may bear on assessment of the second and third elements, the Panel finds the addition of such term 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.

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.

Panels have held that the use of a domain name for illegitimate activity here, claimed as applicable to this case: impersonation/passing off, or other types of fraud, can never confer rights or legitimate interests on a respondent, [WIPO Overview 3.0](#), section 2.13.1.

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.

One of these circumstances is that the Respondent by using the disputed domain name, has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with the Complainant’s mark as to the source, sponsorship, affiliation, or endorsement of its website or location or of a product or service on its website or location (paragraph 4(b)(iv) of the Policy).

In the present case, the Panel notes that it results from the Complainant’s documented allegations that the disputed domain name resolved to a website displaying the Complainant’s trademark and logo and other trade dress and replicating content that at one time appeared on the Complainant’s site and purportedly offering the Complainant’s services. For the Panel, it is therefore evident that the Respondent positively knew of the Complainant’s mark. Consequently, and in the absence of any evidence to the contrary, the Panel is convinced that the Respondent also knew that the disputed domain name included the Complainant’s trademark when it registered the disputed domain name.

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.

On this regard, the further circumstances surrounding the disputed domain name’s registration and use confirm the findings that the Respondent has registered and is using the disputed domain name in bad faith:

(i) the nature of the disputed domain name (incorporating the Complainant’s mark plus the addition of a geographical abbreviation);

(ii) the content of the website to which the disputed domain name direct, displaying the Complainant’s trademark, logo, and purportedly offering the Complainant’s services;

(iii) a clear absence of rights or legitimate interests coupled with no credible explanation for the Respondent’s choice of the disputed domain name;

(iv) the Respondent concealed its identity through a privacy service and provided incomplete or false contact details when registering the disputed domain name (the courier service was not able to deliver the Written Notice due to bad address).

Finally, Panels have held that the use of a domain name for illegitimate activity, here, claimed as impersonation/passing off, or other types of fraud, constitutes bad faith. [WIPO Overview 3.0](#), section 3.4. 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 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 <bnymellonus.com> be transferred to the Complainant.

*/Tobias Malte Müller/*

**Tobias Malte Müller**

Sole Panelist

Date: November 25, 2024