

## **ADMINISTRATIVE PANEL DECISION**

The Bank of New York Mellon v. simon jones  
Case No. D2025-0469

### **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 simon jones, Seychelles.

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

The disputed domain name <bny-uk.com> is registered with Nicenic International Group Co., Limited (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 6, 2025. On February 6, 2025, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2025, 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) and contact information in the Complaint. The Center sent an email communication to the Complainant on February 7, 2025, 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 February 10, 2025.

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 February 13, 2025. In accordance with the Rules, paragraph 5, the due date for Response was March 5, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on March 6, 2025.

The Center appointed Wilson Pinheiro Jabur as the sole panelist in this matter on March 12, 2025. 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 one of the three oldest banking corporations in the United States and one of the oldest banks in the world, having been established in 1784 as the Bank of New York by a group including Alexander Hamilton. As of December 31, 2024, the Complainant had approximately USD 52.1 trillion in assets under custody and/or administration, and USD 2.0 trillion in assets under management on behalf of clients around the world.

The Complainant has used the name “BNY” continuously since 2006, and the names “BNY Mellon” and “The Bank of New York Mellon” continuously since 2007, when The Bank of New York Company, Inc. merged with Mellon Financial Corporation.

The Complainant, in addition to the <bny.com> domain name (registered on March 10, 1995), at which its official webpage is available, is the owner of the following, amongst other, trademark registrations:

- United States Trademark Registration No. 3,117,825, for the word mark BNY, registered on July 18, 2006, successively renewed, in class 36; and
- United States Trademark Registration No. 3,585,488, for the word mark BNY MELLON, registered on March 10, 2009, successively renewed, in classes 35 and 36.

The disputed domain name was registered on January 1, 2025, and presently does not resolve to an active webpage. The disputed domain name has been used in connection with a fraudulent email scheme in which the Respondent impersonated the Complainant.

#### **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 asserts that due to widespread, continuous, and highly publicized use throughout the United States and the world, the BNY trademark has become famous, having consistently been named as one of the top 100 most valuable banking brands in the world by Brand Finance, as well as one of “the most recognized and well-known brands in the financial industry.” *Pershing Investments, LLC v. Alexey Chichaykin*, WIPO Case No. [D2018-2437](#).

The Complainant contends that the disputed domain name is confusingly similar to the Complainant's trademark and prior domain name, being the Complainant's trademark recognizable in the disputed domain name and the addition of a hyphen and of the term “uk” does nothing to distinguish the disputed domain name.

Also, according to the Complainant, the Respondent has no rights or legitimate interests in the disputed domain name given the attempt to impersonate the Complainant in a fraudulent scheme as part of an illegal campaign to impersonate the Complainant and defraud innocent third parties; also not being the Respondent commonly known by the disputed domain name or any portion thereof, nor there being any indication that the Respondent registered the disputed domain name as a trademark. Furthermore, the Complainant has never assigned, sold or transferred any rights in any of its BNY trademarks to the

Respondent, there being no legal relationship with the Complainant, and Complainant not having granted the Respondent permission to use or register any of its BNY trademarks as a domain name.

The Complainant thus contends that the registration of the disputed domain name was clearly done in bad faith, given the use made of the disputed domain name in connection with the impersonation of the Complainant's employees, to facilitate a fraudulent scam relying on the BNY trademark. Furthermore, the choice to employ a privacy protection service to hide the true identity of the Respondent is a further indication of its bad faith, as well as the inactive website associated with the disputed domain name being passively held by the Respondent.

## **B. Respondent**

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

## **6. Discussion and Findings**

Paragraph 4(a) of the Policy sets forth the following three requirements which have to be met for this Panel to order the transfer of the disputed domain name to the Complainant:

- (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 Complainant must prove in this administrative proceeding that each of the aforesaid three elements is present in order to obtain the transfer of the disputed domain name.

### **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 BNY 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.

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 illegal activity, such as 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.

In the present case, the Panel notes that the Respondent used the disputed domain name in an attempt to pass off as the Complainant in an illegal campaign to impersonate the Complainant and defraud innocent third parties, also showing clear knowledge of the Complainant and its trademark, and bad faith intent, at the time of registration.

Panels have held that the use of a domain name for illegal activity (e.g., phishing, 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.

Other factors corroborate a finding of the Respondent's bad faith: i) the indication of false or incomplete contact details; and ii) the current inactive use of the disputed domain name.

For the reasons above, the Respondent's conduct has to be considered, in this Panel's view, as bad faith registration and use of the disputed domain names pursuant to paragraph 4(b)(iv) of 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 <bny-uk.com> be transferred to the Complainant.

*/Wilson Pinheiro Jabur/*

**Wilson Pinheiro Jabur**

Sole Panelist

Date: March 26, 2025