

## **ADMINISTRATIVE PANEL DECISION**

Zions Bancorporation, N.A. v. George Gillespie  
Case No. D2022-3197

### **1. The Parties**

The Complainant is Zions Bancorporation, N.A., United States of America (“United States”), represented by TechLaw Ventures, PLLC, United States.

The Respondent is George Gillespie, United States.

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

The disputed domain name <amegy.site> (the “Domain Name”) is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 29, 2022. On August 30, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name. On August 30, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the Domain Name which differed from the named Respondent (Privacy service provided by Withheld for Privacy, Iceland) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 1, 2022, 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 September 9, 2022.

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 September 13, 2022. In accordance with the Rules, paragraph 5, the due date for Response was October 3, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 4, 2022.

The Center appointed Angela Fox as the sole panelist in this matter on October 24, 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.

#### **4. Factual Background**

The Complainant is a bank based in the United States. It has been operating there since 2005, under the name and trademark AMEGY. The Complainant is the proprietor of federal trademark registrations for marks that consist of and include AMEGY in respect of banking and related services in class 36, including United States registration no. 3,269,288 for AMEGY (filed on January 5, 2005, and registered on July 24, 2007); United States registration no. 2,979,655 for AMEGY BANK (filed on December 8, 2003, and registered July 26, 2005); and United States registration no. 3,105,196 for a stylized AMEGYBANK logo mark (filed on January 5, 2005, and registered on July 13, 2006), details of which were annexed to the Complaint.

The Complainant advertises and offers its services through a website at “www.amegybank.com”, and it also owns and uses the domain name “amegy.com” to direct traffic to its website. Both of these domain names are owned by the Complainant’s parent company, Zions Bancorporation, and have been within the Complainant’s control since 2003.

The Domain Name was registered on May 24, 2022. Annexed to the Complaint were print-outs from the website linked to the Domain Name apparently advertising the business of a bank under the AMEGY BANK name and mark, giving an address in Houston, Texas. The Complainant states in the Complaint that the website operated by the Respondent at the Domain Name is a “virtual copy” of its own website.

#### **5. Parties’ Contentions**

##### **A. Complainant**

The Complainant submits that the Domain Name is confusingly similar to its earlier AMEGY and AMEGY BANK trademarks. The Complainant’s earlier registered trademark AMEGY is included in its entirety and is recognizable within the Domain Name, as is the dominant and distinctive component of the AMEGY BANK trademarks. The Complainant submits that the generic Top-Level Domain (“gTLD”) “.site” should be disregarded. Overall, the Complainant contends that Internet users may be confused into believing there is a connection between the Domain Name and the Complainant’s products and services.

The Complainant also submits that the Respondent has no rights or legitimate interests in the Domain Name. The Respondent has not, whether as an individual, business, or other organization, been commonly known by the Domain Name. It is not a licensee of the Complainant and is not authorised to use the Complainant’s registered trademarks. Moreover, it does not appear to have made any use of, or demonstrable preparations to use, the Domain Name, or a name corresponding to it, in connection with a *bona fide* offering of goods or services. Instead, the Complainant states that the Domain Name resolves to a website that is virtually identical to the Complainant’s website, displaying the Complainant’s trademarks and purporting to offer banking services. This is not a legitimate noncommercial or fair use, and moreover appears intended for commercial gain to misleadingly divert consumers to the Respondent’s website.

Finally, the Complainant asserts that the Respondent registered and is using the Domain Name in bad faith. The use of the Complainant’s registered AMEGY mark within the Domain Name and its use in connection with a website that appears to be a virtual copy of the Complainant’s website indicates that the Domain Name was registered primarily for the purpose of disrupting the business of the Complainant, and appears to have been intended to take advantage of the goodwill associated with the Complainant’s registered trademarks. The Complainant alleges that the Respondent is trying to divert customers of the Complainant from the Complainant’s own website to the Respondent’s website for commercial gain or malicious purposes, by creating a likelihood of confusion with the Complainant’s trademarks. The Respondent has intentionally

tried to create a likelihood of confusion with the Complainant's marks as to the source, sponsorship, affiliation, or endorsement of the Respondent's website. Given the content of the website linked to the Domain Name, the Complainant asserts that the Respondent must have known about the Complainant's trademarks and the business carried out under them. The Complainant notes moreover that given that the Respondent is using the Domain Name in order to masquerade as the Complainant, the Respondent could be using it in connection with phishing or other fraudulent activities.

## **B. Respondent**

The Respondent did not reply to the Complainant's contentions and is in default. No exceptional circumstances explaining the default have been put forward. Therefore, in accordance with paragraphs 14(a) and (b) of the Rules, the Panel will decide the Complaint and shall draw such inferences as it considers appropriate from the Respondent's default.

## **6. Discussion and Findings**

Under paragraph 4(a) of the Policy, a complainant can only succeed in an administrative proceeding under the Policy if the panel finds that:

- (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 the disputed domain name; and
- (iii) the disputed domain name has been registered and is being used in bad faith.

### **A. Identical or Confusingly Similar**

The Complainant has proved that it has registered trademark rights in AMEGY and AMEGY BANK. The Domain Name includes AMEGY in its entirety, adding only the gTLD ".site". As noted in the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), section 1.11.1, the TLD is a standard registration requirement and as such is typically disregarded under the first element confusing similarity test.

The Panel finds that the Domain Name is identical to a trademark in which the Complainant has rights.

### **B. Rights or Legitimate Interests**

The burden of proving absence of rights or legitimate interests in a domain name falls on complainants, but panels have long recognized that the information needed to prove such rights or legitimate interests is normally in the possession of respondents.

In order to avoid requiring complainants to prove a negative, which will often be impossible, UDRP panels have typically accepted that once a complainant has established a *prima facie* case that a respondent lacks rights or legitimate interests, the respondent carries the burden of producing evidence that it does indeed have such rights or interests (see, *inter alia*, *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#)). In the present case, the Complainant has put forward a *prima facie* case that the Respondent has no rights or legitimate interests in the Domain Name. There is nothing on the record to indicate that the Respondent might have any rights or legitimate interests in it, nor has the Respondent attempted to make out a case that it has. The Complainant has not authorized the Respondent to use the Domain Name, nor is there any evidence that the Respondent has ever been commonly known by it.

The Respondent's use of the Domain Name to link to a website that appears to be masquerading as the Complainant and its business strongly suggests, moreover, that it has no rights or legitimate interests in the Domain Name. Furthermore, the inherently misleading nature of the Domain Name, being identical to the Complainant's trademark, carries a high risk of implied affiliation (see [WIPO Overview 3.0](#), section 2.5.1).

The Panel finds that the Respondent has no rights or legitimate interests in the Domain Name.

### **C. Registered and Used in Bad Faith**

Under paragraph 4(b)(iv) of the Policy, the Panel may find both registration and use in bad faith where there is evidence that by using the domain name, a respondent has intentionally attempted to attract, for commercial gain, Internet users to its website or other online location, by creating a likelihood of confusion with a complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on it.

In this case, the Complainant has annexed copies of print-outs from the Respondent's website which not only look very similar to the Complainant's own website, but which also purport to be the website of the Complainant. The Respondent is not authorised to use the Complainant's trademarks and has provided no explanation for this conduct. The fact that the Respondent's website contains content copied from the Complainant's own website indicates that it likely registered it in the knowledge of the Complainant and its business under the AMEGY trademarks. Moreover, by using the Domain Name to effectively masquerade as the Complainant it is clear that the Respondent has used the Domain Name in a manner intended to attract Internet users by creating a likelihood of confusion with the Complainant's registered marks. Since the Respondent's website is purportedly offering banking services, these activities appear to have been for commercial gain. The Panel finds that the Complainant has made out a case for bad faith registration and use under paragraph 4(b)(iv) of the Policy.

As the Complainant notes in the Complaint, activities of this kind can be linked to phishing or other fraudulent activities. There is admittedly no hard evidence in the Complaint that phishing or other types of fraud have actually been carried out through the Domain Name. Nevertheless, though, against the backdrop of the facts in this case there is no plausible good faith reason for the Respondent's registration and use of the Domain Name, and there is a clear risk that in the hands of the Respondent the Domain Name is likely to be put to illegitimate purposes.

The Panel finds that the Domain Name was 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 Domain Name, <amegy.site>, be transferred to the Complainant.

*/Angela Fox/*

**Angela Fox**

Sole Panelist

Date: November 13, 2022