

## ADMINISTRATIVE PANEL DECISION

Capital One Financial Corporation v. 吕福立 (Fuli Lv)  
Case No. D2022-3647

### 1. The Parties

The Complainant is Capital One Financial Corporation, United States of America (“United States”), represented by CSC Digital Brand Services Group AB, Sweden.

The Respondent is 吕福立 (Fuli Lv), China.

### 2. The Domain Names and Registrar

The disputed domain names <caoitalone.info>, <capialone.info>, <capiralone.info>, <capitakone.info>, <capitalne.info>, <capitalobe.info>, <capitaloe.info>, <capitaloen.info>, <capitalome.info>, <capitalon.info>, <capitalonr.info>, <capitalonw.info>, <capitalpne.info>, <capitaone.info>, <capitlaone.info>, <capitlone.info>, <capitslone.info>, <capiyalone.info>, <capotalone.info>, <captalone.info>, <captialone.info>, <caputalone.info>, <cpaitalone.info>, <cpitalone.info>, <cspitalone.info>, and <vapitalone.info> are registered with Alibaba Cloud Computing Ltd. d/b/a HiChina (www.net.cn) (the “Registrar”).

### 3. Procedural History

The Complaint was filed in English with the WIPO Arbitration and Mediation Center (the “Center”) on September 30, 2022. On October 3, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. On October 9, 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. On October 10, 2022, the Center transmitted an email communication to the Parties in English and Chinese regarding the language of the proceeding. On October 10, 2022, the Complainant confirmed its request that English be the language of the proceeding. The Respondent did not comment on the language of the proceeding.

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 in Chinese and English of the Complaint, and the proceedings commenced on October 20, 2022. In accordance with the Rules, paragraph 5, the due date for Response was November 9, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on November 10, 2022.

The Center appointed Rachel Tan as the sole panelist in this matter on November 25, 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 financial services institution headquartered in McLean, Virginia, United States. It was established in 1994 and its operations are organized in three major business segments; namely, credit card, consumer banking, and commercial banking.

The Complainant is the owner of the CAPITAL ONE mark in different jurisdictions, including China Trade Mark Registration No. 14585113, registered on July 14, 2015, in class 36, Hong Kong Trade Mark Registration No. 2000B05130, registered on March 31, 2000, in class 36, and United States Registration No. 2065991, registered on May 27, 1997, in class 36.

The Respondent is 吕福立 (Fuli Lv), China.

The disputed domain names were registered on September 8, 2021. According to the information provided by the Complainant, at the time of filing this Complaint, several disputed domain names resolved to active pay-per-click ("PPC") webpages that list out multiple third-party links related to different contents such as "Business Credit Cards", "Investments", and "Credit Card Payments", whereas the rest of the disputed domain names resolved to blank pages and lack content. At the time of this Decision, all the disputed domain names do not resolve to any active websites. The resolved websites either indicate "The content of the page cannot be displayed" or "An Error Occurred - Services for this domain name have been disabled".

#### **5. Parties' Contentions**

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

The Complainant contends that the disputed domain names are all purposeful misspellings of the Complainant's CAPITAL ONE mark. Each of the disputed domain names varies from the Complainant's mark by only one letter. The disputed domain names are confusingly similar to the Complainant's CAPITAL ONE mark.

The Complainant further alleges that the Respondent lacks rights or legitimate interests in the disputed domain names. The Complainant has not given the Respondent permission to use the Complainant's marks in any manner. It has not licensed, authorized, or permitted the Respondent to register domain names incorporating the Complainant's marks. The Complainant also claims that the Respondent is not commonly known by the disputed domain names. The Respondent is using several disputed domain names to redirect internet users to websites featuring links to third-party websites, some of which directly compete with the Complainant's business. As such, the Respondent is not using these disputed domain names to provide a *bona fide* offering of goods or services. Further, the Respondent is using the remaining disputed domain names to redirect internet users to websites that resolve to blank pages and lack content. Thus, the Respondent has not demonstrated any attempt to make legitimate use of these disputed domain names.

The Complainant finally asserts that the disputed domain names were registered in bad faith. The Complainant has marketed and sold its goods and services using the CAPITAL ONE mark well before the Respondent's registration of the disputed domain names. By registering 26 domain names that are confusingly similar to the Complainant's marks, the Respondent has demonstrated a knowledge of the Complainant's business. The disputed domain names are all slight misspellings of the Complainant's CAPITAL ONE mark, and such typosquatting is evidence of bad faith registration. By creating the likelihood of confusion between the Complainant's marks and the disputed domain names, leading to misperceptions as to the source, sponsorship, affiliation, or endorsement of the disputed domain names, the Respondent

has demonstrated a nefarious intent to capitalize on the fame and goodwill of the Complainant's marks in order to increase traffic to the disputed domain names' websites for the Respondent's own pecuniary gain, as evidenced by the presence of multiple PPC links posted to the majority of the Respondent's websites.

Further, the passive holding of the rest of the disputed domain names which resolve to inactive sites constitute a factor in finding bad faith registration and use. In addition, the Respondent currently holds registrations for several other domain names that misappropriate the marks of well-known brands and businesses demonstrating that the Respondent is engaging in a pattern of cybersquatting/typosquatting.

## **B. Respondent**

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

## **6. Discussion and Findings**

### **6.1 Preliminary Issue: Language of the Proceeding**

Initially, the Panel must address the language of the proceeding. Paragraph 11(a) of the Rules provides that the language of the administrative proceeding shall be the language of the Registration Agreement unless otherwise agreed by the parties, subject to the authority of the panel to determine otherwise, having regard to the circumstances of the administrative proceeding. The panel may choose to write a decision in either language, or request translation of either party's submissions.

In this case, the Registrar has confirmed to the Center that the language of the Registration Agreements as used by the registrant for the disputed domain names is Chinese. However, the Complainant has requested that English be adopted as the language of the proceeding for the reasons summarized below:

(a) the Complainant is unable to communicate in Chinese and translation of the Complaint would unfairly disadvantage and burden the Complainant and delay the proceedings and adjudication of this matter;

(b) the disputed domain names are comprised of Latin characters;

(c) the websites found at the disputed domain names feature various phrases in English, including "Apply For a Credit Card" or "Business Credit Cards"; and

(d) the term "capital one", which is misspelt in each of the disputed domain names, does not carry any specific meaning in the Chinese language.

It is established practice to take paragraphs 10(b) and (c) of the Rules into consideration for the purpose of determining the language of the proceeding, in order to ensure fairness to the parties and the maintenance of an inexpensive and expeditious avenue for resolving domain name disputes. Language requirements should not lead to undue burdens being placed on the parties and undue delay to the proceeding. The Panel has considered the above circumstances, and finds that English shall be the language of this proceeding. The reasons are set out below:

(a) the Complainant is a company based in the United States. Requiring the Complainant to submit documents in Chinese would lead to delay and cause the Complainant to incur translation expenses;

(b) the Respondent's choice of English letters for the disputed domain names and the websites with links in English which the disputed domain names resolve to indicate that the Respondent is familiar with the English language;

(c) even if the Respondent does not possess a sufficient command of English to understand the Complaint, there were ample opportunities for the Respondent to raise an objection. The Center notified the Parties in

English and Chinese of the Complainant's request for English to be the language of the proceeding, but the Respondent did not protest against this request;

(d) the Respondent has failed to participate in the proceeding even though the Center sent the notification of the Complaint in English and Chinese, and has been notified of his/her default; and

(e) the Complaint has been submitted in English. No foreseeable procedural benefit may be served by requiring Chinese to be used. On the other hand, the proceeding may proceed expeditiously in English.

Accordingly, the Panel will proceed with issuing this Decision in English.

## **6.2 Analysis of the Complaint**

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

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the CAPITAL ONE mark.

The Panel also notes that the disputed domain names are misspelling of the CAPITAL ONE mark. In cases where a domain name consists of a common, obvious, or intentional misspelling of a trade mark, the domain name will normally be considered confusingly similar to the relevant mark for purposes of UDRP standing. See section 1.9 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"); *Mediarex Enterprises Limited v. Yong Woon Chin, Webolutions*, WIPO Case No. [DCO2020-0014](#).

Lastly, it is permissible for the Panel to disregard the Top Level Domain in the disputed domain names, *i.e.*, ".info". See section 1.11.1 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the disputed domain names are confusingly similar to the Complainant's CAPITAL ONE mark. Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

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

In circumstances where the Complainant possesses exclusive rights to the CAPITAL ONE mark, whereas the Respondent seems to have no trade mark rights, and considering the facts and arguments set out above, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names, and the burden of production shifts to the Respondent. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided evidence of a legitimate use of the disputed domain names or reasons to justify the choice of domain names that are confusing similar to the Complainant's CAPITAL ONE mark. Further, there is no indication to show that the Respondent is commonly known by the disputed domain names or otherwise has rights or legitimate interests in any of them. In addition, the Complainant has not granted the Respondent a license or authorization to use the Complainant's CAPITAL ONE mark or register the disputed domain names. The Respondent is not making a legitimate noncommercial or fair use of the disputed domain names in the terms of paragraph 4(c)(iii) of the Policy since at the time of filing the Complaint, part of the disputed domain names resolved to PPC websites with links to third-party websites, some of which are related to or compete with the Complainant's business. Such usage may reasonably be assumed to be commercial in its intent and effect. Prior UDRP panels have found that the use of a domain name to host a parked page comprising PPC links does not represent a *bona fide* offering of goods or services where such links compete with or capitalize on the reputation and goodwill of the complainant's mark or otherwise mislead Internet users. See section 2.9 of the [WIPO Overview 3.0](#).

Therefore, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names. Accordingly, the Panel finds that the Complainant has satisfied the second element under paragraph 4(a) of the Policy

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

The Complainant's CAPITAL ONE mark has been registered across multiple jurisdictions. The disputed domain names were registered well after the registration of the Complainant's CAPITAL ONE mark. Through extensive use and advertising, the Complainant's CAPITAL ONE mark is known throughout the world. Search results using the keyword "capital one" on Internet search engines direct Internet users to the Complainant and its business, which indicates that an exclusive connection between the CAPITAL ONE mark and the Complainant has been established. Moreover, all the disputed domain names only differ from the Complainant's trade mark by a single letter. As such, the Respondent either knew or should have known of the Complainant's CAPITAL ONE mark when registering the disputed domain names, see section 3.2.2 of the [WIPO Overview 3.0](#).

Section 3.1.4 of the [WIPO Overview 3.0](#) states that "[...] mere registration of a domain name that is identical or confusingly similar (particularly domain names comprising typos or incorporating the mark plus a descriptive term) to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith". In this case, the disputed domain names are confusingly similar (and comprising typos) to the widely known CAPITAL ONE mark and were registered by the Respondent who has no relationship with the Complainant, which means that a presumption of bad faith can be created.

Section 3.5 of the [WIPO Overview 3.0](#) states that "[p]articularly with respect to 'automatically' generated pay-per-click links, panels have held that a respondent cannot disclaim responsibility for content appearing on the website associated with its domain name (nor would such links *ipso facto* vest the respondent with rights or legitimate interests)". The Panel notes that the several disputed domain names previously resolved to parked pages comprising PPC advertising links that divert Internet users to various content, some of which are related to and competing with the Complainant's business. The Panel finds the use of confusingly similar disputed domain names to lure Internet users to competing third-party websites is evidence of bad faith. See *Sodexo v. 杨智超 (Zhi Chao Yang)*, WIPO Case No. [D2020-1171](#).

The Panel notes that some of the disputed domain names do not resolve to any website. The current inactive use of these disputed domain names in this case would not prevent a finding of bad faith under the doctrine of passive holding. In its determination, the Panel considers the degree of distinctiveness and reputation of the Complainant's CAPITAL ONE mark, as well as the Respondent's failure to respond in the face of the Complainant's allegations of bad faith. See section 3.3 of the [WIPO Overview 3.0](#).

The Panel also notes that the Respondent appears to be engaged in a pattern of abusive registration having registered multiple domain names comprising third-party trade marks. The Panel finds this case is a continuation of that bad faith pattern. See *Asurion, LLC v. 杨智超 (Zhichao Yang)*, WIPO Case No. [D2021-4231](#). Moreover, in this case the Respondent has registered 26 disputed domain names incorporating typo variations of the Complainant's trademark. Such behaviour constitutes evidence of bad faith registration and use as contemplated under paragraph 4(b)(ii) of the Policy.

The Respondent has kept silent in the face of the Complainant's allegations of bad faith. Taking into account these circumstances, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain names and, considering the Respondent's lack of rights or legitimate interests, and by registering and using the disputed domain names as discussed above, the Panel is led to conclude that the disputed domain names were registered and are being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under paragraph 4(a) 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 names <caoitalone.info>, <capialone.info>, <capiralone.info>, <capitakone.info>, <capitalne.info>, <capitalobe.info>, <capitaloe.info>, <capitaloen.info>, <capitalome.info>, <capitalon.info>, <capitalonr.info>, <capitalonw.info>, <capitalpne.info>, <capitaone.info>, <capitlaone.info>, <capitlone.info>, <capitslone.info>, <capiyalone.info>, <capotalone.info>, <captalone.info>, <captialone.info>, <caputalone.info>, <cpaitalone.info>, <cpitalone.info>, <cspitalone.info>, and <vapitalone.info> be transferred to the Complainant.

*/Rachel Tan/*

**Rachel Tan**

Sole Panelist

Date: December 9, 2022