

ADMINISTRATIVE PANEL DECISION

Oney Bank v. yaoyu wen, 个人
Case No. D2024-5191

1. The Parties

The Complainant is Oney Bank, France, represented by BrandShelter, France.

The Respondent is yaoyu wen, 个人, Philippines.

2. The Domain Name and Registrar

The disputed domain name <wwwoneyg3.net> is registered with Dynadot Inc (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on December 17, 2024. On December 18, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On December 19, 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 (Super Privacy Service LTD c/o Dynadot) and contact information in the Complaint. The Center sent an email communication to the Complainant on December 19, 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 amended Complaint on December 26, 2024.

The Center verified that the Complaint together with the amended 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 January 7, 2025. In accordance with the Rules, paragraph 5, the due date for Response was January 27, 2025. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on January 29, 2025.

The Center appointed Mladen Vukmir as the sole panelist in this matter on January 31, 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 Oney Bank, a French company established in 1983 and specialized in consumer credit, electronic payments and payment card management.

The Complainant is the owner of various trademarks registered worldwide, composed of the sign “oney” alone or combined with another element, including ONEY (word) International Registration number 865742, registered on August 11, 2005 for goods and services in classes 9, 36 and 38 of International Classification (“IC”), and ONEY (word) International Registration No. 947985, registered on July 11, 2007 for goods and services in classes 9, 36 and 38 of IC (hereinafter “ONEY trademark”).

The Complainant holds the domain name consisting of ONEY trademark, notably <oney.com> registered on October 12, 2003.

The disputed domain name <wwwoneyg3.net > was registered on August 16, 2024, and it resolves to a pornographic website including monetization through advertisements.

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 that:

Since 1983 the Complainant has become one of the leading financial partners in the European Union with a portfolio of 10 million customers.

The disputed domain name is confusingly similar to the Complainant’s ONEY trademark, as it consists of the Complainant’s ONEY trademark, which is dominant and distinctive element of the disputed domain name, of combination of letters “www” (referring to the abbreviation of World Wide Web) and term “g3”. The disputed domain name creates a risk of confusion with the Complainant and its ONEY trademark.

The Respondent has no rights or legitimate interests in respect of the disputed domain name. The Respondent did not obtain any authorization from the Complainant to use ONEY trademark as a domain name. The disputed domain name resolves to a pornographic website which is not a bona fide offering of goods or services or legitimate noncommercial or fair use. The Respondent is using the disputed domain name to engage in illegitimate domain name monetization by means that include web traffic diversion and advertisement in association with the website to which the disputed domain name resolves.

The disputed domain name has been registered and used in bad faith. The disputed domain name has been registered by reproducing the Complainant’s ONEY trademark which is a fanciful term. Taking into account the Complainant’s ONEY trademark use and reputation for over years, if the Respondent had carried out a simple Internet search on the “oney” sign, it would have been informed of the Complainant’s prior trademark rights. The Complainant underlines that the disputed domain name has been registered through a proxy provides in order to not disclose the Respondent’s information, and such use appears to be an indication of

the Respondent's bad faith. The disputed domain name is redirecting to a pornographic website including monetization by means that includes advertisement.

B. Respondent

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

6. Discussion and Findings

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 ONEY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

The entirety of ONEY trademark is reproduced within the disputed domain name. Accordingly, the disputed domain name is confusingly similar to ONEY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

The disputed domain name consists of the Complainant's ONEY trademark, and of the terms, "www", and "g3". Where the relevant trademark is recognizable within the disputed domain name, adding other terms (whether descriptive, geographical, meaningless, or otherwise), would not prevent a finding of confusing similarity under the first element. [WIPO Overview 3.0](#), section 1.8

Although the addition of other terms here, "www", and "g3" may bear on assessment of the second and third elements, the Panel finds the addition of such terms does not prevent a finding of confusing similarity between the disputed domain name and ONEY trademark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.8.

The generic Top-Level Domain ".net" is a standard registration requirement and as such may be disregarded under the first element confusing similarity test. [WIPO Overview 3.0](#), section 1.11.1.

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.

The Respondent is not authorized by the Complainant to use ONEY trademark, and there is no indication that the Respondent is commonly known under the disputed domain name. There is no apparent relation from the records between the Respondent and the Complainant, neither does it arise that the Complainant has ever licensed or otherwise permitted the Respondent to use its ONEY trademark, or to apply for or use any domain name incorporating the same trademark.

There is no evidence or otherwise apparent to the Panel that the Respondent has been using the disputed domain name in connection with bona fide offering of goods or services or making a legitimate noncommercial or fair use of the disputed domain name. The Respondent has failed to provide a response to the Complaint, and accordingly failed to rebut the Complainant's prima facie showing that the Respondent has no rights or legitimate interests in the disputed domain name.

The nature of the disputed domain name, comprising the Complainant's ONEY trademark in its entirety, and adding terms "www", and "g3", indicate the Respondent's awareness of the Complainant and its ONEY trademark, and creates a risk of implied affiliation or association with the Complainant, which does not support a finding of any rights or legitimate interests in this case.

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 registered the disputed domain name 19 years after the Complainant registered its ONEY trademark, and 21 years after the Complainant registered its <oney.com> domain name. The disputed domain name incorporates the entirety of the Complainant's ONEY trademark, together with letters "www" and term "g3". The most prominent part of the disputed domain name is the Complainant's ONEY trademark. In this Panel's view, an Internet user would be likely to assume that the disputed domain name and/or its operator are somehow sponsored by, affiliated to or associated with the Complainant. The Respondent is using the disputed domain name for a pornographic website, and likely for illegitimate domain name monetization by means that include web traffic diversion and advertisement in association with the website to which the disputed domain name resolves.

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.

This Panel accepts that the Complainant's ONEY trademark is distinctive, well-known and enjoys reputation within the financial industry. Taking into consideration all circumstances and evidence presented, the Panel believes that it is more likely than not that the Respondent was aware of the Complainant and its ONEY trademark when it registered the disputed domain name.

Incorporation of a well-known trademark in a domain name having no plausible explanation for doing so is in itself an indication of bad faith. [WIPO Overview 3.0](#), section 3.1.4.

In earlier UDPR decisions panels have found that the respondents who fail to search and/or screen registrations against available databases would be responsible for any resulting abusive registrations under the concept of wilful blindness. [WIPO Overview 3.0](#), section 3.2.3.

The Panel is of opinion that, by registering and using the disputed domain name that contains the Complainant's ONEY trademark, the Respondent is attempting to take advantage and of the Complainant's reputation, and well-known trademark.

In this Panel's view, the Respondent's purpose of using the disputed domain name is to attract Internet users who are not looking for a pornographic website but are instead looking for products and/or services associated with the Complainant and its ONEY trademark. Therefore, the Panel holds that by using the disputed domain name, the Respondent has intentionally attempted to attract, for commercial gain, Internet users by creating a likelihood of confusion with the Complainant and its ONEY trademarks. It is well established that if a respondent has intentionally attempted to attract for commercial gain by creating a likelihood of confusion with the complainant's trademark it is an indicator of bad faith.

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 <wwwoneyg3.net> be transferred to the Complainant.

/Mladen Vukmir/

Mladen Vukmir

Sole Panelist

Date: February 14, 2025