

ADMINISTRATIVE PANEL DECISION

Chime Financial, Inc. v. Farhan Raditya

Case No. D2023-0395

1. The Parties

The Complainant is Chime Financial, Inc., United States of America (“United States”), represented by Kelly IP, LLP, United States.

The Respondent is Farhan Raditya, Indonesia.

2. The Domain Name and Registrar

The disputed domain name <chimemembership.com> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint in English was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 27, 2023. On January 30, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 7, 2023, 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 (Privacy Protected), and from the Respondent identified by reference to Annex 1 to the Complaint (Contact Privacy Inc. Customer 7151571251), and contact information in the Complaint. The Center sent an email communication to the Complainant on February 8, 2023 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 in English on February 10, 2023.

On February 8, 2023, the Center sent an email in English and Malay to the Parties regarding the language of the proceeding. The Complainant requested that English be the language of the proceeding on February 10, 2023. The Respondent did not comment on the language of the proceeding.

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 in English and Malay of the Complaint, and the proceedings commenced on February 14, 2023. In accordance with the Rules, paragraph 5, the due date for Response was March 6, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent's default on March 7, 2023.

The Center appointed Andrew Sim as the sole panelist in this matter on March 14, 2023. 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 an American financial technology company founded in 2012 that offers low-cost financial solutions to its customers.

The Complainant is the owner of trademark registrations of the CHIME mark across various jurisdictions, including United States (United States trademark registration No. 4728805, registered on April 28, 2015; and United States registration No. 6053385, registered on May 12, 2020).

The Complainant maintains its presence on the Internet through its primary domain name <chime.com> hosting its primary website at "www.chime.com" which the Complainant uses to provide authorized information and details regarding its financial solutions. The Complainant acquired this domain name in January, 2020 and currently owns this domain name. The Complainant also owns and operates other domain names featuring its registered CHIME mark, including <chimecard.com> and <chimebank.com>.

The disputed domain name <chimemembership.com> was registered on December 13, 2022. According to the evidence produced by the Complainant, the disputed domain name previously resolved to a website impersonating the Complainant and its registered CHIME mark and mimicking the Complainant's "log in" webpage ("member.chime.com/users/sign_in") used on the Complainant's official website. According to the Complainant, such prior content on the disputed domain name was later removed as a result of the Complainant's takedown request against the same. According to the evidence produced by the Complainant, at the time of the Complaint, the disputed domain name resolved to a webpage displaying the warning that a "deceptive site" was ahead, and the disputed domain name redirected visitors to various different third-party websites after such warning message was clicked through.

At the time of drafting of this Decision, the disputed domain name resolves to an inactive site and is not being used.

5. Parties' Contentions

A. Complainant

The Complainant contends that the disputed domain name is confusingly similar to its registered CHIME mark. The additional term "membership" alludes to the Complainant's business and its customers which further supports the confusing similarity between the disputed domain name and the Complainant's registered CHIME mark.

The Complainant further contends that the Respondent has no rights or legitimate interests in the disputed domain name. The Complainant has not given the Respondent any license, authorization or permission to use the Complainant's trademark in any manner, including in domain names. The Respondent is not commonly known by the disputed domain name. In addition, the Respondent was using a privacy Whois service at the time of filing of the Complaint. The disputed domain name, which entirely incorporates the Complainant's registered trademark, previously resolved to a website impersonating the Complainant and its registered CHIME mark and brand. In doing so, the disputed domain name hosted content infringing the

Complainant's rights in its registered trademark and mimicking the Complainant's official website, including displaying a "log in" prompt (that requested email addresses and passwords) that is identical or highly similar to the "log in" page used on the Complainant's official website. This use fails to constitute a *bona fide* offering of goods or services or legitimate noncommercial or fair use of the disputed domain name. Thus, the Respondent has no rights or legitimate interests in respect of the disputed domain name.

The Complainant finally contends that the disputed domain name was registered and is being used in bad faith.

B. Respondent

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

6. Discussion and Findings

6.1 Procedural Matter - Language of the Proceeding

The Rules, in paragraph 11(a), provide that unless otherwise agreed by the parties or specified otherwise in the registration agreement between the respondent and the registrar in relation to the disputed domain name, the language of the proceeding shall be the language of the registration agreement, subject to the authority of the Panel to determine otherwise, having regard to the circumstances of the administrative proceeding. According to the information received from the Registrar, the language of the Registration Agreement is Malay.

The Complainant submits that the language of the proceeding should be English. The Complainant mainly contends that the disputed domain name targets an English-language trademark CHIME and includes the English term "membership"; that the disputed domain name previously resolved to a website hosting content that was entirely in English, and now ultimately redirects to various third-party websites in English; and that the Complainant will bear the burden of spending extra time and money to obtain non-English translations.

In exercising its discretion to use a language other than that of the Registration Agreement, the Panel has to exercise such discretion judicially in the spirit of fairness and justice to both Parties, taking into account all relevant circumstances of the case, including matters such as the Parties' ability to understand and use the proposed language, time and costs.

The Panel accepts the Complainant's submissions regarding the language of the proceeding. The Complainant may be unduly disadvantaged by having to conduct the proceeding in Malay. The Panel further notes that the Center has notified the Respondent in both Malay and English of the language of the proceeding and the commencement of the proceeding. The Respondent chose not to comment on the language of the proceeding or respond to the Complaint in either English or Malay. Having considered all the circumstances of this case, the Panel determines that English be the language of the proceeding.

6.2 Substantive Matter – Three Elements

Under the Policy, the Complainant must prove that:

- (i) The disputed domain name is identical or confusingly similar to a trademark or service mark in which it 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.

A. Identical or Confusingly Similar

The Complainant has established that it has registered trademark rights in the CHIME mark.

The test for confusing similarity involves a reasoned but relatively straightforward comparison between the trademark and the disputed domain name. It is well established that the generic Top-Level Domain “.com” may be ignored in assessing the confusing similarity between the disputed domain name and the Complainant’s trademark.

The disputed domain name incorporates the Complainant’s registered CHIME mark in its entirety, with the word “membership” added at the back. Such addition does not prevent a finding of confusing similarity between the Complainant’s CHIME trademark and the disputed domain name.

Thus, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights in accordance with paragraph 4(a)(i) of the Policy.

B. Rights or Legitimate Interests

The Complainant asserts that it has no connection with the Respondent, and has not authorized the Respondent the use its trademark in any manner. The Panel agrees with the Complainant that the Respondent, who is identified as “Farhan Raditya”, does not resemble the Complainant’s trademark or the disputed domain name in any manner.

The Complainant also contends that the disputed domain name was used for possible fraudulent phishing activities, and produced evidence that the disputed domain name previously resolved to a deceptive webpage impersonating the Complainant and mimicking the “log in” page used on the Complainant’s official website, presumably as a part of a fraudulent scheme to phish for and collect sensitive personal and financial information from visitors to such website. Such use cannot constitute a *bona fide* offering of goods or services or legitimate noncommercial or fair use of disputed domain name.

According to the Complainant, such prior use was later removed as a result of the Complainant’s takedown request against the same. Before the disputed domain name became inactive, according to the evidence produced by the Complainant, the disputed domain name resolved to a webpage displaying the warning that a “deceptive site” was ahead, and the disputed domain name redirected visitors to various different third-party websites after such warning message was clicked through. Such use also fails to constitute a *bona fide* offering of goods or services or legitimate noncommercial or fair use of disputed domain name.

Thus, the Panel accepts that, on a balance of probabilities, these allegations were soundly based and the Complainant has established a *prima facie* case. The burden of production to demonstrate its rights or legitimate interests in respect of the disputed domain name shifts to the Respondent, and the Respondent failed to submit a response. The Panel concludes that the Respondent has not rebutted the Complainant’s *prima facie* case.

Moreover, the nature of the disputed domain name, which incorporates the Complainant’s trademark plus a term related to the Complainant’s business, carries a risk of implied affiliation as it effectively impersonates or suggests sponsorship or endorsement by the trademark owner.

Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in respect of the disputed domain name in accordance with paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

The Panel agrees with the Complainant that the Respondent was most likely aware of the Complainant’s business and trademarks before or when the Respondent registered the disputed domain name. The disputed domain name was registered after the Complainant registered its CHIME mark. From the fact that

the disputed domain name previously resolved to a website that impersonated the Complainant, displayed and reproduced the Complainant's registered trademark without authorization, and mimicked the Complainant's official website, it is likely that the Respondent chose the disputed domain name for registration and built such prior deceptive website in a calculated and premeditated attempt to impersonate the Complainant or otherwise to create a false impression that the disputed domain name and the website hosted thereon were connected with or approved by the Complainant, and an inference of bad faith can be drawn from such behavior.

As indicated in section 6.2B above, the Complainant has satisfied the Panel that it is more likely than not that the Respondent was using the disputed domain name for fraudulent phishing purposes. The current non-use of the disputed domain name does not change the Panel's finding on the Respondent's bad faith considering the circumstances of this case.

The Panel is therefore satisfied that the disputed domain name was registered and is being used in bad faith within the meaning of paragraphs 4(a)(iii) and 4(b)(iv) 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 <chimembership.com> be transferred to the Complainant.

/Andrew Sim/

Andrew Sim

Sole Panelist

Date: March 29, 2023