Decision for dispute CAC-UDRP-107501

Case number	CAC-UDRP-107501
Time of filing	2025-04-22 16:18:57
Domain names	CLIENTI-MOONEY-SERVIZIO.COM

Case administrator

Organization	Iveta Špiclová (Czech Arbitration Court) (Case admin)

Complainant

Organization	Mooney S.p.A.

Complainant representative

Organization	Perani Pozzi Associati

Respondent

Organization	My Store

OTHER LEGAL PROCEEDINGS

The Panel is not aware of any other legal proceedings which are pending or decided and which relate to the disputed domain name.

IDENTIFICATION OF RIGHTS

In these proceedings, the Complainant relies on its following trademarks:

- International trademark registration no. 1547324 “MOONEY”, granted on June 18, 2020 and duly renewed, in class 9, 36, 37, 38 and 42, also covering Japan, where the Respondent is apparently located;

- EU trademark registration no. 018248141 “MOONEY”, filed on February 15, 2022, granted on September 16, 2020, in classes 9, 36, 37 and 38;
- EU trademark registration no. 018656425 “MOONEY”, filed on February 15, 2022, granted on June 30, 2022, in classes 12, 25 and 41;
- EU trademark registration no. 018656431 “MOONEY & device”, filed on February 15, 2022, granted on July 5, 2022, in classes 12, 25, 36 and 41;

- EU trademark registration no. 018365022 “MOONEY & device”, filed on December 29, 2020, granted on June 3, 2021, in classes 9, 16, 35, 36, 37, 41 and 42; and,

- Italian trademark registration no. 302020000038617 “MOONEY”, filed on May 20, 2020, granted on October 7, 2020, in classes 9, 36, 37, 38 and 42.

It is worth noting that, the Complainant also owns several other registrations for the same trademarks around the world, which have

not been cited in these proceedings.

FACTUAL BACKGROUND

The Complainant is an Italian company, founded in 2019, active in the field of facilitation of payments through its digital platforms.

According to the evidence filed by the Complainant and not disputed by the Respondent, the Complainant has a network of over 45000 points of sale, securing banking payments in a safe, simple and fast way. It is especially well active in its home country Italy, but is also present in many other countries of the world for millions of customers.

The Complainant owns a fair-sized portfolio of trademarks including the wording “MOONEY”, among which notably a national Italian registration dating back to 2020, as well as an International registration and an EU trademark registration from the same year. It also owns a multitude of related domain names bearing the sign “MOONEY” plus a ccTLD, such as <MOONEY.IT> since September 5, 2010.

The disputed domain name <CLIENTI-MOONEY-SERVIZIO.COM> was registered on July 16, 2024 by the Respondent.

PARTIES CONTENTIONS

COMPLAINANT

The Complainant contends that the disputed domain name is confusingly similar to its MOONEY trademark, as it fully incorporates this trademark. This last element is sufficient to support the finding that the disputed domain name is confusingly similar to the Complainant's trademarks. Indeed, the mere addition of the descriptive words “CLIENTI” and “SERVIZIO” in the disputed domain name does not change the overall impression of a most likely connection with the trademark MOONEY of the Complainant. As to the gTLD “.com”, the Complainant suggests that it should be disregarded, as per the usual practice.

The Complainant maintains that the Respondent lacks rights or legitimate interests in the disputed domain name because the Respondent is not known by the disputed domain name, the Complainant is not affiliated with nor has it ever authorised the Respondent to register its trademark as a disputed domain name and the Complainant has no business with the Respondent.

According to the Complainant, given the distinctiveness and reputation of the MOONEY trademark, the Respondent registered the disputed domain name with full knowledge of the Complainant's trademark, and this is sufficient evidence of the fact that the disputed domain name was registered in bad faith. The addition of the generic words “CLIENTI” and “SERVIZIO” does not change this view.

With respect to use in bad faith, the Complainant points out that the disputed domain name resolves to a blocked website, a fact that rather suggests a fraudulent use by the Respondent with probable intention for “phishing”, which in combination with the well-known character of the Complainant’s trademark may be considered as a clear indication of bad faith.

For all these reasons, the Complainant concludes that the Respondent registered and used the disputed domain name in bad faith.

RESPONDENT

No administratively compliant Response has been filed.

RIGHTS

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights (within the meaning of paragraph 4(a)(i) of the Policy).

More precisely, the disputed domain name <CLIENTI-MOONEY-SERVIZIO.COM> wholly incorporates the Complainant’s Trademark Registrations for “MOONEY” to which it is identical, as well as to its other related domain names. Indeed, the mere addition of the descriptive words “CLIENTI” and “SERVIZIO” (meaning “clients” and “service” in Italian) to the Complainant’s trademark in the disputed domain name is not sufficient to escape the finding of confusing similarity, as the other word element has been kept intact by the Respondent (MOONEY).

As far as the gTLD ".com" is concerned, it is generally recognized that top level domains do not have any bearing in the assessment of identity or confusing similarity, according to paragraph 4(a)(i) of the Policy.

Hence, the Panel is satisfied that the first requirement under the Policy is met.

NO RIGHTS OR LEGITIMATE INTERESTS

The Complainant has, to the satisfaction of the Panel, shown the Respondent to have no rights or legitimate interests in respect of the disputed domain name (within the meaning of paragraph 4(a)(ii) of the Policy).

Since proving a negative fact is almost impossible, panels in UDRP proceedings have generally agreed that it is sufficient for the Complainant to establish a prima facie case that the Respondent lacks rights or legitimate interests in the disputed domain name to shift the burden of proof to the Respondent.

In the case at issue, the Complainant argued that it had never authorised the Respondent to register the MOONEY trademark in a domain name, and that it had never licensed its trademark to the Respondent, who is not affiliated or doing any business with the Complainant.

Furthermore and finally, there is neither any evidence in the case file that could demonstrate that the Respondent has been commonly known by the disputed domain name, nor is there any non-commercial or fair use of the disputed domain name by the Respondent.

In view of the foregoing, the Panel is satisfied that the Complainant has established a prima facie case that the Respondent lacks rights and legitimate interests in the disputed domain name. In order to rebut the Complainant's arguments, the Respondent had the possibility to make his own defense. However, the Respondent has chosen not to file a Response.

Therefore, the Panel is satisfied that the second requirement under the Policy is also met.

BAD FAITH

The Complainant has, to the satisfaction of the Panel, shown the disputed domain name has been registered and is being used in bad faith (within the meaning of paragraph 4(a)(iii) of the Policy).

As far as registration in bad faith is concerned, given the reputation of the Complainant's trademark, also in Japan where the Respondent is based, and the fact that the disputed domain name fully incorporates the said trademark, it is rather clear to this Panel that, at the time of the registration of the disputed domain name, the Respondent was well aware of the Complainant's trademark. The registration as domain name of a third party's well-known trademark with full knowledge of the fact that the rights over this trademark belong to a third party amounts to registration in bad faith.

With respect to use in bad faith, the disputed domain name resolves – according to the evidence presented by the Complainant, not refuted by the Respondent – to a website that has been blocked by Google Safe Browsing, which could indicate previous use by the Respondent for “phishing” purposes against online consumers. Such fraudulent use of a domain name shows bad faith under some circumstances, such as when the complainant’s trademark has such a strong reputation that it is widely known, and when it is impossible to conceive any plausible actual or contemplated active use of the domain name by the Respondent that would not be illegitimate. This fact is to be combined with the full incorporation of the Complainant’s reputable trademark in the disputed domain name. These circumstances apply to a large extent to the case at issue. The trademark MOONEY enjoys a fair reputation in its field of business. Thus, it is impossible to conceive any plausible active use of the disputed domain name that would be legitimate. This conclusion is further reinforced by the intentional use of the generic words “CLIENTI” and “SERVIZIO” by the Respondent, as these terms relate and point to the Complainant’s clientele, a usual practice in the banking and financial industry.

Therefore, the Panel finds it clear that the disputed domain name was used in bad faith.

For all circumstances mentioned above, the Panel is satisfied that also the third requirement under the Policy is satisfied.

PROCEDURAL FACTORS

The Panel is satisfied that all procedural requirements under UDRP were met and there is no other reason why it would be inappropriate to provide a decision.

PRINCIPAL REASONS FOR THE DECISION

The disputed domain name wholly incorporates the Complainant's well-known trademark. The disputed domain name is therefore confusingly similar to the Complainant's trademark, despite the use of two other generic words, which in fact reinforce the confusion.

The Respondent was not authorised to include the Complainant's trademark in the disputed domain name, and the Complainant never licensed its trademark to the Respondent. The Respondent is not using the disputed domain name in connection with a bona fide offering of goods or services, or a legitimate non-commercial or fair use.

The Respondent registered the disputed domain name with full knowledge of the Complainant's well-known trademark. His use of the disputed domain name is in bad faith, as there is no conceivable use of the disputed domain name that could amount to a legitimate use.

FOR ALL THE REASONS STATED ABOVE, THE COMPLAINT IS

Accepted

AND THE DISPUTED DOMAIN NAME(S) IS (ARE) TO BE

1. **CLIENTI-MOONEY-SERVIZIO.COM**: Transferred

PANELLISTS

Name	**Sozos-Christos Theodoulou**

DATE OF PANEL DECISION 2025-05-27

Publish the Decision