

ADMINISTRATIVE PANEL DECISION

WK Travel, Inc. v. Mohamed Samaha
Case No. D2023-3503

1. The Parties

The Complainant is WK Travel, Inc., United States of America (“United States”), represented by Mitchell, Silberberg & Knupp, LLP, United States.

The Respondent is Mohamed Samaha, Lebanon.

2. The Domain Name and Registrar

The disputed domain name <onetravelbeirut.com> 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 17, 2023. On August 18, 2023, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 18, 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 (Redacted for Privacy, Privacy service provided by Withheld for Privacy ehf) and contact information in the Complaint. The Center sent an email communication to the Complainant on 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 August 24, 2023.

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 August 25, 2023. In accordance with the Rules, paragraph 5, the due date for Response was September 14, 2023. The Respondent sent an email communication to the Center on August 28, 2023. The Respondent contacted the Center on September 14, 2023, asking for extension to submit a response to September 16, 2023, and sent an email communication on September 16, 2023, asking for a potential settlement.

On September 18, 2023, the Center sent a possible settlement email to the parties. On September 26, 2023, the Complainant asked for an extension to submit a request of suspension of the proceeding, which has been granted by the Center. On September 30, 2023, the Complainant requested a suspension of proceeding to explore settlement talks. On October 2, 2023, the Center sent a Notification of Suspension to the Parties. On November 1, 2023, the Center sent an end of suspension period reminder to the Parties. On November 1, 2023, the Complainant notified the Center that a settlement has not been reached and asked for the reinstatement of proceeding, which thereafter was reinstated.

The Center appointed John Swinson as the sole panelist in this matter on November 15, 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 a United States business that operates as an online service bureau providing value added services to retail travel agents and consumers. This service is provided under the trademark ONETRAVEL and at a website located at <onetravel.com>.

The Complainant owns a United States trademark registration for ONETRAVEL, being U.S. Registration No. 4,545,969 with a filing date of May 8, 2012, and a registration date of June 10, 2014.

The disputed domain name was registered on January 11, 2023.

The Respondent is the General Manager of Anzima Group. According to the website at <anzimagroup.com>, Anzima Group is a digital design agency that specialises in digital design and website development. Anzima Group is located in Beirut.

The Respondent stated in email correspondence with the Center that the disputed domain name was registered on behalf of "One Travel and Tourism" in Lebanon. The Respondent later stated in a second email that the disputed domain name was registered on behalf of "my client 'One Travel s.a.r.l.' a registered company in Lebanon". That email included supporting documentation -- a document regarding the incorporation of One Travel s.a.r.l. and a photograph of the outside of a building with a sign that states "ONE TRAVEL" in large font and "FOR TRAVEL SERVICES" in small font, and an airplane logo. The sign was a substantial sign. The office or shop associated with the sign looks empty and was potentially undergoing fit out at the time the photograph was taken. There are also ladders in the photograph. The document states that One Travel s.a.r.l. was formed on July 27, 2023.

The website at the disputed domain name advertises "OneTravelLebanon, your trusted travel agency specializing in personalized and unforgettable travel experiences." The website includes a telephone number, and email address, a logo with the words ONE TRAVEL, and an airplane (like that on the physical sign referred to above), some photographs of Lebanon, and one paragraph of "about us" information. The website appears to be under development. For example, the Facebook and Instagram links do not operate. Clicking on the "Get in touch" button does nothing. The website states that it was developed by Anzima Group.

On June 29, 2023, the Complainant sent a cease-and-desist letter regarding the disputed domain name to the Respondent at the contact email address listed on the website at the disputed domain name. The letter alleged breaches of various United States laws. No response was received to this letter (or to a follow up letter) prior to the filing of the Complaint.

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 the disputed domain name includes the entirety of the Complainant's ONETRAVEL trademark, and due to the strong reputation and fame of the Complainant's ONETRAVEL trademark, the Respondent's registration and competing use of the disputed domain name is in bad faith.

B. Respondent

The Respondent did not file a formal Response to the Complainant's contentions. In informal correspondence, the Respondent states that the Respondent registered the disputed domain name for a client of the Respondent (evidence of such company and storefront is noted above), namely One Travel s.a.r.l., an entity incorporated in Lebanon.

6. Discussion and Findings

To succeed, the Complainant must demonstrate that all of the elements enumerated in paragraph 4(a) of the Policy have been satisfied, namely:

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

The onus of proving these elements is on the Complainant.

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.

Based on the available record, the Panel finds the Complainant has shown rights in respect of a trademark or service mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.2.1.

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

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

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.

While 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 often-impossible 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. 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 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.

Paragraph 4(c) of the Policy states:

“Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):

(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a *bona fide* offering of goods or services; or

(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; ...”

The disputed domain name was registered on January 11, 2023 by the Respondent, a website developer. The Respondent was given notice of this dispute by a letter from the Complainant on June 29, 2023. One Travel s.a.r.l. was incorporated a month later on July 27, 2023.

In *Fantage.com, Inc. v. PrivacyProtect.org /Privacy Domain Manager a subsidiary of Taylored Web Creations*, WIPO Case No. [D2012-0867](#), it was asserted by the respondent (a website developer) that the domain name was registered on behalf of a client called FAM. The Panel stated:

“It might be considered, from the Respondent’s point of view, that a website developer could have a legitimate interest in a domain name in the transient period between its registration on behalf of a client and its delivery to the client. Despite the opportunity provided by an invited Supplemental Filing, the Respondent has provided no evidence of the existence of FAM to counter the Complainant’s assertion that it may not exist. Had such evidence been provided, the question would have remained as to whether the use of the disputed domain name could have been legitimate.”

See also *LPG Systems v. Hoomaan Sheikholeslami, EDEN Advertising Group*, WIPO Case No. [DCO2011-0055](#).

Although the exact relationship between the Respondent and One Travel s.a.r.l is unclear and not explicitly proven in any document provided to the Panel, the evidence provided by the Respondent suggests that the Respondent and One Travel s.a.r.l. may be somehow working together beyond the mere registration of a domain name.

The disputed domain name has been registered for less than a year, and it appears that One Travel s.a.r.l. is a new business. Thus, a website developer such as the Respondent could relay the legitimate interest in the disputed domain name of its client during this period while One Travel s.a.r.l. is in its establishment phase.

There is no explicit evidence of use of, or demonstrable preparations to use, the disputed domain name or a name corresponding to the disputed domain name prior to June 29, 2023 (the date of the Complainant’s letter to the Respondent). However, clearly the website had been established at this point in time, because

the letter describes the website and states that the Complainant “has recently discovered that your company is operating a travel-related website at the [disputed] domain name [], which purports to offer travel agency and booking services.” Thus, this letter seems to be evidence of use of the disputed domain name prior to June 29, 2023. The question arises whether such use is bona fide.

The Complainant provided no evidence of the Complainant’s reputation in Lebanon. For example, there is no evidence before the Panel of any trademark registrations in Lebanon, any customers in Lebanon, any advertising in Lebanon, or any sales in Lebanon. The Complaint refers to the “the strong reputation and fame of the ONETRAVEL® Mark” but provides no evidence of such reputation or fame aside from saying they have been using the mark for two decades and their company (Fareportal) has relationships with some 500 airlines (it is not clear however in the Complaint if those relationships use the Fareportal moniker, or the ONETRAVEL mark). The Complainant stated, in an email to the Center relating to the parties not reaching a settlement, that the Complainant “offers dozens of options for flights to and from Beirut”, but there is no evidence that a new and small travel agency (or website developer) in Lebanon would likely have been aware of the Complainant or the ONETRAVEL trademark or website.

The Panel finds that the record appears to support a finding that the Respondent (or its client) developed the name “One Travel” independently of the Complainant’s trademark, and has used the disputed domain name in connection with an apparent bona fide offering of its services in Lebanon.

The Panel concludes that paragraph 4(c)(i) assists the Respondent in the present case.

The Complainant’s cease-and-desist letter to the Respondent of June 29, 2023 referred to breaches of United States laws but did not refer to any of the laws of Lebanon. There is no evidence that the Respondent or its client One Travel s.a.r.l. operates outside of Lebanon. It is unclear to the Panel how (on the facts before the Panel) that a travel agency in Lebanon could be in breach of United States laws. See, for example, *Bensusan Restaurant Corp. v. King*, 126 F.3d 25, 44 U.S.P.Q.2d (BNA) 1051 (2nd Cir. 1997) and the INTA Internet Committee Report titled “TARGETING AND THE PART IT PLAYS IN ESTABLISHING JURISDICTION IN CASES INVOLVING THE USE OF TRADEMARKS ON THE INTERNET” published on April 18, 2022.

One Travel s.a.r.l. was established as a corporation after notice of the dispute to the Respondent. The Panel does not rely upon the establishment of One Travel s.a.r.l. or paragraph 4(c)(ii) of the Policy to find rights or legitimate interests in this case.

On balance of the probabilities, and noting that the burden of proof relies on the Complainant, the Panel finds that there is not sufficient evidence to conclude under the Policy that the Respondent (or its client) selected the disputed domain name or the name One Travel s.a.r.l. to take advantage of the Complainant’s business or trademark.

See, for example, *Europe Plein Air - E.P.A. v. Tony Youssef*, WIPO Case No. [D2021-1682](#).

In summary, based on the available record, the Panel is not prepared to conclude without further evidence that One Travel s.a.r.l. is not a legitimate or bona fide business, and accordingly finds that the second element of the Policy has not been established.

To the extent the Complainant believes there may be a trademark claim under national law, that is for them to address in court; the case before the Panel however does not have any of the hallmarks of a traditional case of cybersquatting.

C. Registered and Used in Bad Faith

Under the third requirement of the Policy, the Complainant must establish that the disputed domain name has been both registered and used in bad faith by the Respondent. These are conjunctive requirements; both must be satisfied for a successful complaint.

Generally speaking, a finding that a domain name has been registered and is being used in bad faith requires an inference to be drawn that the respondent in question has registered and is using the disputed domain name to take advantage of its significance as a trademark owned by (usually) the complainant.

The Complainant contends that the Respondent must have known about the Complainant's trademark based on the following factors: (1) the disputed domain name includes the entirety of the Complainant's ONETRAVEL trademark; (2) the strong reputation and fame of the Complainant's ONETRAVEL trademark; (3) constructive knowledge because of the Complainant's U.S. trademark registration for ONETRAVEL; and (4) that the Respondent is directly competing with the Complainant.

The Respondent's client, One Travel s.a.r.l. sometimes uses two words for "One Travel" (and with one word below the other), whereas the Complainant uses ONETRAVEL without a space as a single term. (On the website at the disputed domain name, however, there is use of "OneTravelLebanon".) One Travel s.a.r.l. has a different logo and get-up to the Complainant. Although it is not entirely clear, One Travel s.a.r.l. appears to be a traditional store front travel agency with a website and not an online travel facilitator. The Respondent is located in Lebanon, and (as stated above) the Complainant provided no evidence of its reputation in Lebanon. Accordingly, on balance, based on the evidence provided by the Complainant, the Panel is not prepared to infer that the Respondent registered or One Travel s.a.r.l. used the disputed domain name with an intent to target the Complainant and its trademark.

Even if One Travel s.a.r.l. was aware of the Complainant when registering the disputed domain name, for the reasons set forth above, the Panel does not consider this to be a clear or prima facie obvious case of use of a domain name to trade off the reputation of the Complainant or its trademark.

In addition, the Complainant's logo on the Complainant's website is a golden-yellow logo in a circular shape, which could be regarded as a "O" and a "T" being combined. It is a clean and stylistic logo. The website at the disputed domain name shows a gold logo (in a different shade of gold to the Complainant's logo) with a circle and a plane flying in the circle, five stars and the words "One" above "Travel" in the circle, and the words "For Travel Services" at the bottom of the circle. It is a complex logo. Although both logos include a circle and are in a similar colour, the Panel does not consider the logos to be similar enough to conclude that the Respondent is attempting to trade off the reputation of the Complainant by use of this logo.

If circumstances of use of the disputed domain name were to change in the future to cast a different light on the Respondent's intentions, the Complainant would be in a position to file a new complaint with such new evidence.

Based on the available record, the Panel finds the third element of the Policy has not been established.

7. Decision

For the foregoing reasons, the Complaint is denied.

/John Swinson/

John Swinson

Sole Panelist

Date: December 5, 2023