

## **ADMINISTRATIVE PANEL DECISION**

Banque et Caisse d'Epargne de l'Etat, Luxembourg v. Antonio Souza,  
Souzanet Sistemas  
Case No. D2024-4624

### **1. The Parties**

Complainant is Banque et Caisse d'Epargne de l'Etat, Luxembourg, Luxembourg, represented by Office Freylinger S.A., Luxembourg.

Respondent is Antonio Souza, Souzanet Sistemas, Brazil, self-represented.

### **2. The Domain Name and Registrar**

The disputed domain name <snet.one> (hereinafter "Disputed Domain Name") is registered with GoDaddy.com, LLC (the "Registrar").

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the "Center") on November 11, 2024. On November 11, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Disputed Domain Name. On November 11, 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 (REDACTED FOR PRIVACY) and contact information in the Complaint. The Center sent an email communication to Complainant on November 13, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting Complainant to submit an amendment to the Complaint. Complainant filed an amended Complaint on November 20, 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 Respondent of the Complaint, and the proceedings commenced on November 21, 2024. In accordance with the Rules, paragraph 5, the due date for Response was December 11, 2024.

Respondent sent email communications to the Center on November 20 and 26, 2024. On November 26, 2024, the Center sent an email to the Parties regarding the possible settlement, inquiring whether the Parties wished to suspend proceedings and explore settlement. Complainant responded that it wanted to proceed with the UDRP complaint and was not interested in a suspension of the proceedings. On December 12, 2024, the Center informed the Parties of the commencement of panel appointment process.

The Center appointed Lawrence K. Nodine as the sole panelist in this matter on December 17, 2024. 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**

Complainant is a state-owned Luxembourgish company incorporated in 1989, although related companies were established in 1856. Complainant uses the trademark SPUERKEESS for banking, insurance, and financial services. It has physical branches in Luxembourg, but alleges that it also offers banking services internationally, although it provides no allegations or evidence detailing these international offerings.

Complainant uses the trademark S-NET (hereinafter the "Mark") to brand its online access services, including its mobile application, which allow Complainant's account holders to access banking services remotely. These services are offered on Complainant's website and via the domain name <bcee.snet.lu>.

Complainant owns the following trademark registrations for the Mark:

- Benelux Trademark Registration No. 644,249 registered on August 1, 1999;
- European Union Trademark Registration No. 009110644 registered on July 1, 2012; and
- United Kingdom Trademark Registration No. UK00909110644 registered on July 1, 2012.

The Disputed Domain Name was registered October 11, 2024. There is no active webpage associated with the Disputed Domain Name, which resolves to a webpage stating that the domain is parked free by the Registrar.

#### **A. Complainant**

Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Disputed Domain Name.

Notably, Complainant contends that it and its SPUERKEESS trademark is well known in the bank sector, noting that it has been recognized by third parties as among the ten safest banks in the world in 2019. Complainant also contends that its S-NET Mark "is generally known by the public in Luxembourg and refers to the banking app of" Complainant. In support this contention, Complainant refers the Panel to a Wikipedia page<sup>1</sup> about the bank and to the online sign-in page for the "S-Net and S-Net Mobile."

#### **B. Respondent**

Although Respondent did not submit a response in the format prescribed by the Rules, Respondent submitted two emails that generally deny the allegations of likely confusion and bad faith.

Respondent asserts that:

- "Souzanet Sistemas Ltda has been operating in the educational sector for nearly 30 years, offering technological solutions to schools and educational institutions in Brazil."

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<sup>1</sup> [https://en.wikipedia.org/wiki/Banque\\_et\\_Caisse\\_d%27%C3%89pargne\\_de\\_l%27%C3%89tat](https://en.wikipedia.org/wiki/Banque_et_Caisse_d%27%C3%89pargne_de_l%27%C3%89tat)

- Respondent registered the Disputed Domain Name without any knowledge of Complainant or its rights “with no intention of infringing upon third- party rights or causing confusion with any registered trademarks.”
- Although the website is not yet operational, Respondent intended to use the Disputed Domain Name “exclusively as a technical resource to generate shortened redirect URLs. The goal is to allow users of the website ‘www.shortlink.com.br’, a product of Souzanel Sistemas Ltda, . . . to share shortened links in a simplified and accessible format.” The service would be offered to educational institutions in Brazil to facilitate “the sharing of enrollment and re-enrollment links.”
- The Disputed Domain Name “will not host its own website nor be associated with email addresses or any other means of contact. [...] The domain will be used solely for technical purposes, eliminating any possibility of confusion with the registered trademark S-NET.”
- “There is no connection between the purpose of the domain ‘snet.one’ and financial, banking, or related services.”
- “[W]e have decided not to use the domain ‘snet.one’.”
- The Disputed Domain Name is available for purchase via GoDaddy.

## **5. 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 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.

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 Mark is recognizable within the Disputed Domain Name. Accordingly, the Disputed Domain Name is confusingly similar to the mark for the purposes of the Policy. [WIPO Overview 3.0](#), section 1.7.

Although the addition of a hyphen may bear on assessment of the second and third elements, the Panel finds that this addition 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 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 that Complainant has established a prima facie case that Respondent lacks rights or legitimate interests in the Disputed Domain Name. Respondent has not rebutted 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.

Respondent asserts he purchased the Disputed Domain Name "exclusively as a technical resource to generate shortened redirect URLs" for use by educational institutions in Brazil. However, Respondent has not offered evidence of "demonstrable preparations to use" the Disputed Domain Name for the stated purpose. Accordingly, Respondent does not meet the requirements of Policy paragraph 4(c)(i). Nonetheless, Respondent's explanation is relevant to the question of bad faith considered in the next section.

The Panel finds the second element of the Policy has been established.

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

Complainant has not proved by a preponderance of the evidence that Respondent registered the Disputed Domain Name in bad faith. Respondent denies that he had any knowledge of Complainant or its rights in the Mark when he registered the Disputed Domain Name. Complainant has not submitted any evidence that would support a finding that Respondent was more likely than not aware of Complainant's rights when he registered the Disputed Domain Name. Given this deficit, the balance of probabilities favors Respondent.

Complainant asserts that it is well known, contending that it was ranked by third parties as one of the safest banks in the world. This evidence is not persuasive because it does not demonstrate awareness of the Mark outside Complainant's account holders in Luxembourg, and in particular Brazil where Respondent resides and where he intended to offer services using the Disputed Domain Name. Instead, Complainant's evidence regarding reputation relates to the reputation of the bank itself without addressing whether there is widespread awareness of the S-NET Mark.<sup>2</sup> With respect to the Mark specifically, the Complaint alleges only that the "trademark 'S-NET' is generally known by the public in Luxembourg and refers to the banking app of" Complainant.

Complainant argues that "the trademarks 'S-NET' can easily be found by the performance of a simple Google search that demonstrates that all the first results relate to Complainant's goods and services." In support of this contention, Complainant attaches as an Annex a screenshot of a what the Panel assumes (Complainant does not make clear) is an excerpt from the result of an online Google search. The excerpt shows "S-Net - Spuerkeess" in the reference. This evidence is not sufficient to persuade the Panel that Respondent should have known of Complainant's rights in the Mark.

First, there is no evidence in this record that would have alerted Respondent that it should conduct a further investigation (by online search or otherwise) to determine whether Complainant had relevant rights. There is no evidence that the Mark was so well known that Respondent was willfully blind to Complainant's rights. *ABSA Group Limited v. Alejandro Angel Bleuzet, Grupo ABSA S.A.*, WIPO Case No. [D2019-0291](#) (complainant's reputation in South Africa did not extend to Argentina). Although panels have sometimes, based on the overall facts of the case, imposed on domain name investors the duty to conduct online searches to avoid purchasing domain names that abuse trademark rights, see [WIPO Overview 3.0](#), sections 3.2.2 and 3.2.3, this line of cases does not apply because Respondent is not a domain name investor and, further to the Panel's analysis below, there is considerable doubt whether Respondent would have

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<sup>2</sup> For example, the Complaint references a Wikipedia website, *id.*, for "details about said bank," but there is no mention of the Mark in the Wikipedia article.

discovered Complainant's trademark when conducting a search, particularly in Brazil where Respondent is based.

Second, Complainant's proffered search evidence—an excerpt from the result of an online search—is not persuasive. It was Complainant's burden to offer evidence to support its contention that an online search would have informed of Complainant's rights, but there are several flaws in the evidence that Complainant submitted. Complainant does not include the entire search result, or even several pages from the result, but instead offers an excerpt isolating the single result that mentions the Mark. Although Complainant contends that the search "demonstrates that all the *first results* relate to Complainant's goods and services," (*emphasis added*), the Panel cannot determine whether the excerpt appears on page one or ten of the search result. As a consequence, the evidence does not support Complainant's claim that its Mark would be ranked highly in a "simple Google search." The evidence also fails to show whether the search identifies third parties who also use S-NET as a trademark (in other jurisdictions or on other goods or services) or otherwise dilute Complainant's rights. *Compare Delta Dental Plans Ass. v. Kwangpyo Kim*, WIPO Case No. [D2022-0566](#). In addition, Complainant does not tell the Panel what search terms it used. The Disputed Domain Name is based on "snet," not "s-net". Even if the Panel assumes that Respondent should have conducted an online search, he would probably have searched for "snet" without a hyphen. There is nothing in the record would have notified Respondent that he should instead search for "S-Net." And there is no reason to assume that a search for "snet" would produce the same results as a search for "S-Net." *Forever I Am, Inc v. Domain Admin, HugeDomains.com.*, WIPO Case No. [D2021-1550](#). For all these reasons, the Panel finds that the proffered Google search evidence is not persuasive.

Complainant has also failed to prove that Respondent has used the Disputed Domain Name in bad faith. Complainant speculates that there is a risk that Respondent will use the Disputed Domain Name as part of a phishing scheme, but offers no evidence in support of the allegation. Respondent denies any such intent, stating that "the domain 'snet.one' will not host its own website nor be associated with email addresses or any other means of contact." Given the absence of any evidence undermining this denial, the Panel finds that the balance of probabilities favors Respondent.

The Panel finds the third element of the Policy has not been established.

## 6. Decision

For the foregoing reasons, the Complaint is denied.

*/Lawrence K. Nodine/*

**Lawrence K. Nodine**

Sole Panelist

Date: December 26, 2024