

## **ADMINISTRATIVE PANEL DECISION**

Oney Bank v. E.Saldanha  
Case No. D2024-0808

### **1. The Parties**

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

The Respondent is E. Saldanha, Canada.

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

The disputed domain name <oney.one> is registered with NameCheap, Inc. (the “Registrar”).

### **3. Procedural History**

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on February 22, 2024. On February 23, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 23, 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, Privacy service provided by Withheld for Privacy ehf) contact information in the Complaint. The Center sent an email communication to the Complainant on February 26, 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 February 29, 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 March 1, 2024. In accordance with the Rules, paragraph 5, the due date for Response was March 21, 2024. The Respondent sent email communications to the Center on March 1 and 5, 2024, and the Parties attempted to settle the dispute. The Complainant sent an email communication to the Center on March 12, 2024, stating that the settlements efforts had been unsuccessful. The Respondent sent an email communication to the Center on March 14, 2024, requesting that the administrative proceeding continue. On March 22, 2024, the Center notified the Parties that the Center will

proceed to Panel Appointment.

The Center appointed Assen Alexiev as the sole panelist in this matter on March 28, 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**

The Complainant is a French company specialized in consumer credit, electronic payments, and payment card management. It has 10 million customers in 12 countries.

The Complainant is the owner of the following trademark registrations for the sign “ONEY” (the “ONEY trademark”):

- the International trademark ONEY with registration No. 865742, registered on August 11, 2005, for goods and services in International Classes 9, 36, and 38;
- the European Union trademark ONEY with registration No. 004579561, registered on April 26, 2007, for goods and services in International Classes 9, 35, 36, 38, 39, 41, and 42; and
- the Canadian trademark ONEY with registration No. TMA826898, registered on June 21, 2012, for services in International Classes 35 and 36.

The Complainant is also the owner of the domain name <oney.com>, registered on October 12, 2003, which resolves to its official website.

The disputed domain name was registered on June 18, 2023. It redirects to the website at <onebrand.one>, which offers branding services and sells a portfolio of domain names.

#### **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.

The Complainant states that the disputed domain name is identical to its ONEY trademark.

According to the Complainant, the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant underlines that “ONEY” is not a generic term, and the Respondent is not linked to any product or service named “ONEY”, but appears to be specialized in growing brands. The Complainant states that the disputed domain name is not used in connection with any bona fide offering of goods or services. It notes that the disputed domain name redirects to the website at the domain name <onebrand.one> which presents the company ONEBRAND, specialized in domain name branding and selling of domain names with the top-level domain (TLD) “.one”. The Complainant underlines that it has sent several email communications, notifying the Respondent of the alleged trademark infringement, and informing the Respondent that the Complainant is disposed to resolve the dispute amicably. However, the Complainant’s emails remained unanswered.

The Complainant contends that the disputed domain name was registered and is being used in bad faith. It submits that, by making a search on the Internet, the Respondent would have seen that the word mark “ONEY” refers to the Complainant. According to the Complainant, the Respondent registered the disputed domain name to exploit the goodwill of the Complainant in order to attract Internet users to its website and promote its activities, since the disputed domain name redirects to the website at the domain name <onebrand.one> which promotes the Respondent’s business.

## **B. Respondent**

The Respondent did not submit a formal Response in reply to the Complainant's contentions.

With its informal communications to the Center, the Respondent made the following statements:

- It is likely that the pre-Complaint correspondence from the Complainant was considered spam or a scam. The Respondent owns hundreds of domain names and gets numerous spam or scam messages regarding them through his many websites;
- the Respondent's company has been operating in the brand development and intellectual property area in Canada for over 30 years, where the Complainant is completely unknown. The Respondent has been registering domain names with integrity since the Internet began;
- the website at the disputed domain name is not operating; it simply redirects to one of the Respondent's ".one" brand websites which is not about finance or insurance;
- the Respondent has no intention of using the disputed domain name in Canada or abroad for financial or insurance services;
- though the Complainant registered the ONEY trademark in Canada, the Complainant does not operate in Canada and the Respondent has never heard of it;
- the Complainant does not own the ONEY trademark in every class of goods and services. "Oney" is also a surname and others use this name globally;
- the Respondent denies that the registration of the disputed domain name was done in bad faith or that it was an attempt to infringe upon the ONEY trademark of the Complainant or gain traffic to the Respondent's website by using the same trademark;
- the disputed domain name was not registered based on the Complainant's name for publicity or to resell it to the Complainant, or to prevent the Complainant from owning it;
- the Respondent has never contacted the Complainant to sell the disputed domain name, which is very different from the ONEY trademark and from the Complainant's domain name <oney.com>.

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

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

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 sought to rebut the Complainant's prima facie showing by advancing arguments in effect that the disputed domain name was registered for its branding business and/or for resale and was not done in a way to target the Complainant as there are other parties using "oney" as a surname or for other purposes.

The Complainant's ONEY trademark was first registered in 2005, which is 18 years before the registration of the disputed domain name. In Canada, it was registered in 2012, which is 10 years before the registration of the disputed domain name. In his email communications to the Center, the Respondent himself refers to the Complainant's Canadian trademark through a link to the official Canadian online database where this trademark can be found. This shows that the Respondent has the knowledge to make online trademark searches. Moreover, the Respondent states that he has worked and taught in the brand development and intellectual property area for over 30 years, and that he has been registering domain names for many years. The fact that the Respondent provides branding services and offers domain names for sale is also confirmed by the content of the website to which the disputed domain name redirects.

The Respondent denies having had knowledge of the Complainant at the time of registration of the disputed domain name in 2023, and states that the Complainant is not active in Canada, but does not directly explain precisely why he chose to register the disputed domain name or how he intends to use it, but seems to imply that it would either be of value to other third parties using "oney" as a surname or otherwise or may in some way relate to his branding business. He does not state whether – and against the background of claiming to be a branding professional for 30 years – prior to the registration of the disputed domain name, he had made online trademark searches. There is no claim by the Respondent to any particular connection between the disputed domain name and the website at <www.onebrand.one> to which it redirects; the Panel notes that the response seems rather to refer to "@growingbrands" and "Saldanha Inc."

As discussed in more detail in section 6.C below the Panel is of the view that the Respondent, said to be a branding and/or domain professional, should have researched the disputed domain name before registering it, utilizing the freely-available Canadian online trademark database – which he himself made reference to in his response. However, when registering the disputed domain name, the Respondent appears not to have done so.

Taking all the above into account, the Panel considers that 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.

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.

As discussed in section 3.2.2 of the [WIPO Overview 3.0](#), noting the near instantaneous and global reach of the Internet and search engines, and particularly in circumstances where the complainant's mark is widely known (including in its sector) or highly specific and a respondent cannot credibly claim to have been

unaware of the mark (particularly in the case of domainers), panels have been prepared to infer that the respondent knew, or have found that the respondent should have known, that its registration would be identical or confusingly similar to a complainant's mark.

Panelists will look to the facts of the case to determine whether such respondent has undertaken good faith efforts to screen such registrations against readily-available online databases to avoid the registration of trademark-abusive domain names. Noting registrant obligations under UDRP paragraph 2, panels have found that respondents who (deliberately) fail to search and/or screen registrations against available online databases would be responsible for any resulting abusive registrations under the concept of willful blindness; depending on the facts and circumstances of a case, this concept has been applied irrespective of whether the registrant is a professional domainer.

In the present case, the disputed domain name is identical to the Complainant's ONEY trademark. Although the Respondent denies any knowledge of the Complainant and its ONEY trademark, he has not provided any explanation as to why he chose to register the disputed domain name and how he intends to use it – merely referring to the fact that it could be a surname or used by other entities, and did not respond or otherwise react to any of the pre-Complaint email communications sent to him by the Complainant stating that this could be because these overtures were treated as spam. The disputed domain name redirects to the website at <onebrand.one>, which advertises the Respondent's branding services and offers for sale numerous domain names. The web address, name and content of this website show no connection to the disputed domain name.

The Respondent does not state whether he had made any efforts to screen the disputed domain name against any online trademark databases or any measures to avoid any abusive use of it. The Internet search results for the term "oney" submitted by the Complainant shows that the first 50 of them refer only to the Complainant. The Complainant's ONEY trademark had been registered in Canada for 10 years before the registration of the disputed domain name, and is the only trademark registration for "oney" in this jurisdiction. The Respondent has demonstrated his ability to check online trademark databases, so he could have easily found out about this trademark had he merely searched for it before the registration of the disputed domain name.

Having reviewed the available record, the Panel concludes that the Respondent, by having failed to search the disputed domain name against the freely-available Canadian online trademark database, is responsible for the resulting registration of the disputed domain name. Since the disputed domain name is identical to the Complainant's trademark, it may confuse and attract Internet users searching for the Complainant. As long as the disputed domain name redirects to a commercial website that advertises the business of the Respondent, the effect would be that the Respondent would receive an undue commercial advantage from the goodwill of the Complainant's trademark.

The Panel therefore 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 <oney.one> be transferred to the Complainant.

*/Assen Alexiev/*

**Assen Alexiev**

Sole Panelist

Date: April 11, 2024