

ADMINISTRATIVE PANEL DECISION

Riway (Singapore) Pte Ltd v. Whois Privacy Corp. / James Boy
Case No. D2022-2247

1. The Parties

The Complainant is Riway (Singapore) Pte Ltd, Singapore, represented by Foong Cheng Leong & Co, Malaysia.

The Respondent is Whois Privacy Corp., United States of America (“U.S.”) / James Boy, Singapore.

2. The Domain Names and Registrars

The disputed domain names <puttier.co> and <puttier.info> is registered with TLD Registrar Solutions Ltd. Internet Domain Service BS Corp (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on June 21, 2022. On June 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain names. Also on June 23, 2022, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain names which differed from the named Respondent and contact information in the Complaint.

The Center sent an email communication to the Complainant on July 4, 2022 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 July 7, 2022.

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 July 8, 2022. In accordance with the Rules, paragraph 5, the due date for Response was July 28, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on July 29, 2022.

The Center appointed Rachel Tan as the sole panelist in this matter on August 3, 2022. 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 part of the Riway International group of companies (“Riway International Group”). The Riway International Group aims to provide an established platform offering products for sales solely through their authorized independent distributors. These products include but not limited to beauty and health supplement products bearing the PURTIER trade mark.

The Complainant and other entities of the Riway International Group are the owner of a range of trade mark registrations that comprise of the term “purtier” across different jurisdictions. For example,

Malaysia Trade Mark Registration No. 2011010704 for  registered on June 10, 2011, in class 5;

Singapore Trade Mark Registration No. T1300420I for  registered on January 9, 2013, in class 5; and 

U.S. Trade Mark Registration No. 4730540 for PURTIER registered on May 5, 2015, in class 5. The Respondent is Whois Privacy Corp., U.S. / James Boy, Singapore.

The disputed domain names <purtier.co> and <purtier.info> were registered on April 10, 2019 and February 20, 2019, respectively. Both disputed domain names resolve to websites which appear to advertise and distribute the Complainant’s products. Both resolved websites indicate themselves as the official distributor. The resolved website of <purtier.co> also displays images of the Complainant’s products.

5. Parties’ Contentions

A. Complainant

The Complainant contends that the disputed domain names are identical to the PURTIER mark. The disputed domain names incorporate the PURTIER mark and are identical to the PURTIER mark. The addition of the Top-Level Domain (“TLD”) “.co” and “.info” to the end of the disputed domain names does not diminish the nearly identical nature of the disputed domain names.

The Complainant further alleges that there is no relationship between the Complainant and the Respondent giving rise to any licence, authorization, permission or other right by which the Respondent owns or uses any domain name incorporating the PURTIER mark. The Complainant and Riway International Group do not sell their products on any website or internet platform, and strongly prohibits their authorized distributors from selling their products via any online means. The Respondent operates the websites bearing the disputed domain names without permission from the Complainant and advertising the products bearing the PURTIER mark online. Therefore, even if the Respondent could argue that it is an authorized distributor of the Complainant or Riway International Group to sell genuine products bearing the PURTIER mark, he or she is still in breach of an authorized distributor’s contract and does not have any rights or legitimate interests in the disputed domain names. The Respondent registered and has used, and will continue to use the disputed domain names solely for commercial gain for his or her own business.

The Complainant finally asserts that the Respondent registered and is using the disputed domain names in bad faith. The Respondent is fully aware of the existence of the Complainant, and it has sought to profit from the disputed domain names by using them to create an aura of affiliation with the Complainant by unlawfully using the Riway name and PURTIER mark. The registration and use of the disputed domain names disrupt

the Complainant's business and interfere with the Complainant's and authorized distributors' businesses and their ability to promote their products bearing the PURTIER mark. The Respondent also included false claims such as "live stem cell therapy" in the resolved websites with the intention to deceive consumers into believing the false claims of the Complainant's products. Further, the resolved website of <purrier.info> claimed to be the official distributor in Singapore and included a contact number on the website which can also be found at the resolved website of <purrier.co>. The true owner of this contact number is an authorized distributor of the Complainant who had previously lodged a police report against the unauthorized publication or use of the contact number. The registration and use of the disputed domain names are clearly for the purpose to attract Internet users to the disputed domain names for commercial gain purpose.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

The Panel is satisfied that the Complainant has adduced evidence to demonstrate its established rights in the PURTIER mark.

The Panel notes that the PURTIER mark is wholly encompassed within the disputed domain names. In cases where a domain name incorporates the entirety of a trade mark, or where at least a dominant feature of the relevant mark is recognizable in the domain name, the domain name will normally be considered identical or confusingly similar to that mark for purposes of UDRP standing. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)").

Further, it is permissible for the Panel to disregard the TLD in the disputed domain names, *i.e.*, ".co" and ".info". See section 1.11.1 of the [WIPO Overview 3.0](#).

Accordingly, the Complainant has satisfied the first element under paragraph 4(a) of the Policy.

B. Rights or Legitimate Interests

In circumstances where the Complainant possesses exclusive rights to the PURTIER mark, whereas the Respondent seems to have no trade mark rights, nor authorization to own or use the disputed domain names, and does not seem to be commonly known by the disputed domain names, the Panel is satisfied that the Complainant has established a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain names, and the burden of production shifts to the Respondent to show that he or she has rights or legitimate interests in the disputed domain names. See section 2.1 of the [WIPO Overview 3.0](#).

The Respondent has not provided evidence of a legitimate noncommercial or fair use of the disputed domain names or reasons to justify his or her choice of the term "purrier" in the disputed domain names. There is no indication to show that the Respondent is commonly known by the disputed domain names or otherwise have rights or legitimate interests in any of them. In addition, the Complainant has not granted the Respondent any license or authorization to use the Complainant's PURTIER mark or register the disputed domain names.

The Panel notes that the disputed domain names resolve to websites which allegedly advertise and distribute the Complainant's products. The websites noticeably displayed the Complainant's PURTIER mark and the resolved website of <purrier.co> also displayed images of the Complainant's products. The websites did not accurately and prominently disclose a lack of a relationship between the Complainant and the Respondent (on the contrary, the website at <purrier.co> identifies the operator as a "Riway Official Distributor & Supplier"). The Panel also notes that it is unclear whether the Respondent is actually offering

the Complainant's products online. Therefore, the facts do not support a claim of a *bona fide* offering of goods or services under the "Oki Data test". See *Oki Data Americas, Inc. v. ASD, Inc.*, WIPO Case No. [D2001-0903](#).

In addition, the Panel notes the composition of the disputed domain names, which carries a high risk of implied affiliation with the Complainant.

None of the circumstances in paragraph 4(c) of the Policy are present in this case.

For these reasons, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain names.

Accordingly, the Complainant has satisfied the second element under paragraph 4(a) of the Policy

C. Registered and Used in Bad Faith

The Complainant's PURTIER mark was registered years before the registration of the disputed domain names. Search results using the term "purtier" on the Internet search engines direct Internet users to the Complainant and its products, which indicates that an exclusive connection between the PURTIER mark and the Complainant has been established. The Respondent appears to be located in Singapore where the Complainant is incorporated. As such, the Respondent either knew or should have known of the Complainant's PURTIER mark when registering the disputed domain names.

The Panel notes that the disputed domain names resolved to websites allegedly advertising and distributing the Complainant's PURTIER products, and on which the Complainant's PURTIER mark prominently appeared. The lack of a clear disclaimer that the Respondent is not affiliated with the Complainant is noticeably absent. Conversely, the content on the websites would lead Internet users to think that the distributions of the Complainant's products are authorized by the Complainant.

The Panel is satisfied that the Respondent intends to take advantage of the reputation of the Complainant's trade mark to attract, for commercial gain, Internet users to the Respondent's websites by creating a likelihood of confusion with the Complainant's mark as to source, sponsorship, affiliation, or endorsement of his or her websites. This demonstrates bad faith registration and use of the disputed domain names, as provided in paragraph 4(b)(iv) of the Policy.

Given all the circumstances of the case, the Panel finds that the Respondent must have known of the Complainant before registering the disputed domain names, and considering the Respondent's lack of rights or legitimate interests, and by registering and using the disputed domain names as discussed above, the Panel is led to conclude that the disputed domain names were registered and are being used in bad faith.

Accordingly, the Panel finds that the Complainant has satisfied the third element under paragraph 4(a) 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 names <purtier.co> and <purtier.info> be transferred to the Complainant.

/Rachel Tan/

Rachel Tan

Sole Panelist

Date: August 17, 2022