

ADMINISTRATIVE PANEL DECISION

Swiss Life AG, Swiss Life Intellectual Property Management AG v. Kris

Loggins

Case No. D2022-3106

1. The Parties

The Complainants are Swiss Life AG and Swiss Life Intellectual Property Management AG, Switzerland, represented by Fuhrer Marbach & Partner, Switzerland.

The Respondent is Kris Loggins, United States of America (“United States”).

2. The Domain Name and Registrar

The disputed domain name <swisslife-usa.com> is registered with Realtime Register B.V. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on August 22, 2022. On August 23, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On August 24, 2022, 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 and contact information in the Complaint. The Center sent an email communication to the Complainant on August 26, 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 amendment to the Complaint on August 29, 2022.

The Center verified that the Complaint together with the amendment to the 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 September 7, 2022. In accordance with the Rules, paragraph 5, the due date for response was September 27, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on September 29, 2022.

The Center appointed Andrea Jaeger-Lenz as the sole panelist in this matter on October 7, 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 Complainants are Swiss Life AG (“Complainant 1”) and Swiss Life Intellectual Property Management AG (“Complainant 2”, together “Complainants”), both corporations incorporated under the laws of Switzerland and having their legal domicile on General-Guisan-Quai 40, 8002 Zürich, Switzerland. Complainant 2 is a subsidiary of Complainant 1 and responsible for managing all intellectual property owned within the Swiss Life group.

Complainant 2 is owner of numerous trademark registrations for the designation “SWISS LIFE”, including the following registrations:

- Swiss trademark registration No. 491528, SWISS LIFE (word), registered on November 15, 2001 for goods and services in Classes 09, 16, 35, 36, 38, 41, 42;
- Swiss trademark registration No. 436709, SWISS LIFE (word), registered on February 12, 1997 for goods and services in Class 36;
- European Union trademark registration No. 003438413, SWISS LIFE (word), registered on October 20, 2006 for goods and services in Classes 09, 16, 35, 36, 38, 41, 42;
- French trademark registration No. 99823895, SWISS LIFE (word), registered on November 18, 1999 for goods and services in Class 36;
- British trademark registration No. 1504597, SWISS LIFE (word), registered on May 27, 1994 for goods and services in Class 36;
- Indian trademark registration No. 1730726, SWISS LIFE (word), registered on January 28, 2011 for goods and services in Class 36;
- Spanish trademark registration No. 1622040, SWISS LIFE (word), registered on March 6, 1991 for goods and services in Class 36.

The Complainants also own various domain names with the designation “SWISS LIFE”, including in particular the domain name <swisslife.com> registered on May 10, 1996 and the domain name <swisslife.ch> registered before January 1, 1996, as well as the following: <swisslife.ch>, <swisslife.de>, <swisslife.be>, <swisslife.at>, <swisslife.li>, <swisslife.lu>, <swisslife.sk>, <swisslife.swiss>, <swisslife.fr>, <swisslife.sg>, <swisslife.hk>, <swisslife.com>, <swisslife.insurances>, <swisslife.shop>, <swisslife.site>, <swisslife.select> and <swisslife.club>. The Complainants use the websites under the aforementioned domain names to promote and sell their insurance products and services.

Further, Complainant 1 is owner of the corporate name “Swiss Life AG” registered on September 4, 1883 in the commercial register of the canton of Zurich, Switzerland under the identification number CHE-105.928.677. Complainant 2 is owner of the corporate name “Swiss Life Intellectual Property Management AG” registered on December 20, 2005 in the commercial register of the canton of Zurich, Switzerland under the identification number CHE-112.691.262.

According to the Whois excerpt provided in Annex 3 to the Complaint, the disputed domain name was registered by the Respondent on August 3, 2022.

5. Parties' Contentions

A. Complainant

The Complainants contend that each of the three elements specified in paragraph 4(a) of the Policy is established in the present case:

1. On the first element, the Complainants contend that the disputed domain name infringes their earlier trademark rights. They argue that the disputed domain name is visually identical with the SWISS LIFE trademarks, while the generic suffix "usa" merely refers to a geographic place. Due to its descriptive character, this element does not contribute to the overall impression of the disputed domain name. Consumers will therefore likely expect that the disputed domain name is owned by the Complainants and/or assume that there is economic, legal or other connection between the Complainants and the Respondent.

The Complainants claim that the trademark SWISS LIFE has gained a high degree of reputation for Switzerland's largest life insurance company as one of Europe's leading comprehensive life and pensions and financial solutions providers, with approximately CHF 254 billion of assets under management by the end of 2019. Founded in 1857 in Zurich as the "Schweizerische Lebensversicherungs und Rentenanstalt cooperative", the company adopted its current name in 2002. The Complainants have provided substantial materials in order to prove that the SWISS LIFE-brand has acquired the status of a well-known mark within the meaning of Article 6bis Paris Convention. In 2019, the group to which the Complainants belong generated a total turnover of more than CHF 23 billion and had around 9,300 employees (FTE) and 14,000 consultants in order to serve its more than 4 million customers. According to ADV Ratings 2019 the SWISS LIFE group figures among the 15 largest European insurance companies according to their assets and is the fourth largest insurance company by market value. In Forbes' list of the World's Best Regarded Companies 2019 the SWISS LIFE group even ranks 125th, ahead of other famous companies such as the Volkswagen Group (#144), Swatch Group (#164) or Pfizer (#171).

The Complainants further argue that the disputed domain name infringes the Complainants' corporate name rights according to Art. 956 Swiss Code of Obligations.

In addition, the Complainants claim that the Respondent's registration and use of the disputed domain name also constitutes an act of unfair competition and criminal offence under Swiss law.

2. On the second element, the Complainants contend that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainants argue that they are the sole legitimate owners of the well-known trademarks, domain names and corporate names consisting of and/or including the term "Swiss life". They have not authorized the Respondent in any way to use the SWISS LIFE mark, especially not for the registration and/or use of the disputed domain name. Moreover, the Complainants claim that they have also comprehensively defended their SWISS LIFE-brand and taken action against third parties referring to numerous domain disputes (including *Swiss Life AG, Swiss Life Intellectual Property Management AG v. Alex Gorsky*, WIPO Case No. [D2021-3258](#) (<swisslifeusa.com>); *Swiss Life Intellectual Property Management AG, Swiss Life AG v. Contact Privacy Inc. Customer 1247404021, Contact Privacy Inc. Customer 1247404021 / Jacques Petit*, WIPO Case No. [D2020-1504](#) (<swisslife-select.net>); *Swiss Life AG et Swiss Life Intellectual Property Management AG v. Yvon Noblet*, WIPO Case No. [D2020-0354](#) (<swiss-life-am.com>); *Swiss Life AG, Swiss Life Intellectual Property Management AG v. Bilal Brent*, WIPO Case No. [D2020-0476](#) (<swisslifeag.com>); *Swiss Life AG; Swiss Life Intellectual Property Management AG v. Domain Admin, Whois Privacy Corp*, WIPO Case No. [D2019-0299](#) (<swisslife-international.com>)).

The Complainants put forth that the Respondent misuses the disputed domain name for "employment fraud" and thereby infringes the Complainants' earlier rights in the well-known SWISS LIFE trademarks, the respective domain names and corporate names. Allegedly, the Respondent misuses the disputed domain name as an email domain impersonating the Complainants by pretending to the addressees that they were in negotiations with (the in fact non-existing) Diana Robcon from Swiss Life group about an alleged employment relationship. In such communication, the Respondent is said to use various documents in the

name and with the logo of “Swiss Life” without authorization of the Complainants and/or the Swiss Life group. The addressees were supposed to fill out the forms in question and thus be lured into revealing personal details. Among the documents used were forms that are typically used in the United States for employment contracts. In these forms, a person has to provide detailed information and personal data. According to the Complainants, consumers may also be tricked into financial transactions later on. The facts were similar to those of *Swiss Life AG, Swiss Life Intellectual Property Management AG v. Alex Gorsky*, WIPO Case No. [D2021-3258](#). The Complaints state that there is no connection between the authors of the respective emails and documents and the Complainants and/or Swiss Life group.

3. On the third element, the Complainants claim that the disputed domain name has been registered and is being used in bad faith. They argue that given the unauthorized reference to and use of the Complainants’ SWISS LIFE-brand and logo, the Respondent must evidently have been aware of the Complainants and the SWISS LIFE-brand when registering the disputed domain name.

According to the Complainants, the Respondent registered the disputed domain name merely for commercial gain in order to use it for fraudulent activities and taking unfair advantage of the Complainants’ rights in the well-known SWISS LIFE-brand, by making consumers believe that the disputed domain name was operated by or authorized by the Complainants. The Complainants further argue that it is well established under the Policy, that the misuse of a trademark in a domain name and its association with illegal or improper activities is a clear indication of registration and use in bad faith.

Furthermore, the Complainants have demonstrated that the Respondent concealed its identity through the use of a Whois proxy service and that the address leads not to a residential area but to a welding supply shop in an industrial zone in Texas (United States) with no indication of a location of the Respondent.

On grounds of the above, the Complainants request the Panel to issue a decision ordering that the disputed domain name be transferred to the Complainants.

B. Respondent

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

6. Discussion and Findings

The Complainants must prove each of the three elements in paragraph 4(a) of the Policy in order to prevail, namely that:

- (i) the disputed domain name is identical or confusingly similar to a trademark or service mark, in which the Complainant has rights; and
- (ii) the Respondent has no rights or legitimate interests in respect of the disputed domain name;
- (iii) the Respondent has registered and is using the disputed domain name in bad faith.

By the Rules, paragraph 5(c)(i), it is expected of a respondent to “[r]espond specifically to the statements and allegations contained in the complaint and include any and all basis for the Respondent (domain-name holder) to retain registration and use of the disputed domain name [...]”.

In this case, the Center has employed the required means to achieve actual notice of the Complaint to the Respondent in compliance with the Rules, paragraph 2(a), and the Respondent was given the opportunity to present its case.

In the event of default, under the Rules, paragraph 14(b) “[...] the Panel shall draw such inferences therefore as it considers appropriate.” As stated by numerous UDRP panels (e.g., *Viacom International Inc. v. Ir*

Suryani, WIPO Case No. [D2001-1443](#)), if the Respondent has not submitted any evidence and has not contested the contentions made by the Complainant, the Panel is left to render its decision on the basis of the uncontroverted contentions made and the evidence supplied by the Complainant: “[...] in the absence of any evidence to the contrary submitted by the Respondent, this Panel accepts in large measure (but not wholly) the submitted evidence and the contended factual and legal conclusions as proven by such evidence.”

In the present administrative proceeding, the Respondent has chosen not to submit a response. The Panel therefore takes its decision on the basis of the statements and documents before it and in accordance with the Policy, the Rules and any rules and principles of law as deems applicable.

A. Identical or Confusingly Similar

The test of identity or confusing similarity under the Policy, paragraph 4(a)(i) is limited in scope to a direct comparison between the Complainants’ trademarks and the textual string which comprises the disputed domain name. In this case, the Complainants have demonstrated registered trademark rights in the SWISS LIFE mark. The disputed domain name consists of the trademark SWISS LIFE plus the term “usa” and the generic Top-Level Domain (“gTLD”) “.com”.

The Panel finds that the disputed domain name is confusingly similar to the Complainants’ SWISS LIFE trademarks.

The disputed domain name contains the trademark SWISS LIFE in its entirety. The addition of the letters “usa”, which stand for “United States of America”, does not prevent a finding of confusing similarity between the disputed domain name and the trademark SWISS LIFE.

Moreover, the gTLD “.com” does not affect the confusing similarity in any way due to the fact that it is a Top-Level Domain which is viewed as a standard registration requirement and thus, usually not taken into consideration when identifying a website as to its origin. For the purposes of assessing identity or confusing similarity under paragraph 4(a)(i) of the Policy, it is therefore permissible for the Panel to ignore the gTLD (section 1.11 of WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”), see also *Rexel Developpements SAS v. Zhan Yequn*, WIPO Case No. [D2017-0275](#); *G4S Plc v. Noman Burki*, WIPO Case No. [D2016-1383](#); *SAP SE v. Mohammed Aziz Sheikh, Sapteq Global Consulting Services*, WIPO Case No. [D2015-0565](#)). Thus, the Panel shall disregard the “.com” gTLD included in the disputed domain name.

Based on the above, the Panel finds that the disputed domain name is confusingly similar to the SWISS LIFE trademarks, in which the Complainants have earlier rights, pursuant to paragraph 4(a)(i) of the Policy. This finding is also supported by the panel decision *Swiss Life AG, Swiss Life Intellectual Property Management AG v. Alex Gorsky*, WIPO Case No. [D2021-3258](#) (<swisslifeusa.com>).

B. Rights or Legitimate Interests

Under paragraph 4(a)(ii) of the Policy, the Complainant has the burden of establishing that the Respondent has no rights or legitimate interests in respect of the disputed domain name.

It is established case law that it is sufficient for the Complainant to make a *prima facie* showing that the Respondent has no rights or legitimate interests in the disputed domain name in order to place the burden of proof on the Respondent (see *Credit Agricole S.A. v. Dick Weisz*, WIPO Case No. [D2010-1683](#); *Champion Innovations, Ltd. v. Udo Dussling (45FHH)*, WIPO Case No. [D2005-1094](#); *Croatia Airlines d.d. v. Modern Empire Internet Ltd.*, WIPO Case No. [D2003-0455](#); *Belupo d.d. v. WACHEM d.o.o.*, WIPO Case No. [D2004-0110](#)).

Paragraph 4(c) of the Policy contains, in particular but without limitation, circumstances that may demonstrate when a respondent has rights or legitimate interest in the use of a domain name. The list

includes:

- (i) the 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 and services before any notice of the dispute;
- (ii) being commonly known by the domain name; or
- (iii) the making of a legitimate non-commercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers.

There is no evidence that the Respondent was using or making demonstrable preparations to use the disputed domain name or a name corresponding to that name in connection with a *bona fide* offering of goods or services before its notice of the dispute. Nor is there any evidence that the Respondent is being commonly known by the disputed domain name.

The Complainants, on the other hand, have coherently and substantially put forth that the Respondent was using the disputed domain name as an email domain falsely impersonating the Complainants and making addressees of such emails believe that the disputed domain name was operated or authorized by the Complainants and thereby illegitimately obtaining a financial benefit.

In this regard it must be taken into account that a respondent's use of a domain name will not be considered "fair" if it falsely suggests affiliation with the trademark owner; the correlation between a domain name and a complainant's mark is often central to this inquiry (see section 2.5 of [WIPO Overview 3.0](#); *he Royal Edinburgh Military Tattoo Limited v. Identity Protection Service, Identity Protect Limited / Martin Clegg, WM Holdings*, WIPO Case No. [D2016-2290](#)).

The Panel notes that the Complainants have not filed any annexes demonstrating the alleged uses of the disputed domain name by the Respondent. Nevertheless, the Panel finds that the Complainants have established a *prima facie* case that the Respondent lacks any rights and/or legitimate interests in the disputed domain name, particularly noting the composition of the disputed domain name. Hence, the burden of production is on the Respondent. In such case, the Respondent must by relevant evidence demonstrate its rights or legitimate interests in the disputed domain name in order to refute the *prima facie* case. The Respondent has made no such demonstration.

This finding is supported by the fact that the Respondent failed to file a response within the proceedings before the Panel. As far as failure to file a response is concerned, it is for a complainant to prove its case, as there may be good reasons why an honest respondent may decide not to prepare and file such document. But where allegations are made which are as serious as those levied by the Complainants in the Complaint, one would expect any honest respondent to positively deny those allegations (see *The Commissioners for HM Revenue and Customs v. Tyrone Jackson*, WIPO Case No. [D2018-0298](#)).

Consequently, the Panel finds that the Respondent's default in refuting the *prima facie* case made by the Complainants is sufficient to establish a lack of rights or legitimate interests of the Respondent in the disputed domain name pursuant to paragraph 4(a)(ii) of the Policy.

C. Registered and Used in Bad Faith

Under paragraph 4(a)(iii) of the Policy, a complainant has to establish that the disputed domain name has been registered and is being used in bad faith by the Respondent.

Whether a domain name is used in bad faith for the purposes of the Policy may be determined by evaluating the factors set out under 4(b) of the Policy:

- (i) circumstances indicating that the respondent has registered or the respondent has acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name

registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of the registrant's documented out-of-pocket costs directly related to the domain name;

(ii) the respondent has registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that the respondent has engaged in a pattern of such conduct;

(iii) the respondent has registered the domain name primarily for the purpose of disrupting the business of a competitor;

(iv) by using the domain name, the respondent has intentionally attempted to attract, for commercial gain, Internet users to the respondent's website or other online location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of the respondent's website or location or of a product or service on the respondent's website or location.

However, the aforementioned provisions are without limitation, and bad faith registration and use may be found otherwise, taking into account all circumstances relevant to the case (see *Cleveland Browns Football Company LLC v. Andrea Denise Dinoia*, WIPO Case No. [D2011-0421](#)).

The Panel finds that the Complainants have made a case that the Respondent has registered and is using the disputed domain name in bad faith.

The Respondent registered a domain name which identically reproduces the Complainants' reputed trademarks with a geographical term.

The Complainants have submitted sufficient evidence to prove that the SWISS LIFE mark is widely known and enjoys a high reputation. They refer to, *inter alia* the decision of the Swiss Supreme Court, BGE 4C.341/2005, <swiss-life.ch> and <la-suisse.com>, dated March 6, 2007, confirming the well-known status of the SWISS LIFE trademark. This has also been recently confirmed by the panel decision *Swiss Life AG, Swiss Life Intellectual Property Management AG v. Alex Gorsky*, WIPO Case No. [D2021-3258](#) (<swisslifeusa.com>). In light of the evidence submitted, the Panel accepts that the SWISS LIFE trademark is a well-known mark.

In view of the foregoing, it is inconceivable that at the time of the registration of the disputed domain name, the Respondent was unaware of the SWISS LIFE name and trademarks.

Furthermore, the Complainants have submitted evidence that the Respondent also uses the disputed domain name in bad faith. The Panel finds that the Respondent targeted the Complainants' well-known trademark with the intention to confuse consumers and to take advantage of the reputation of the Complainants' trademarks and corporate name for its own commercial gain by creating a likelihood of confusion with the Complainants' SWISS LIFE mark.

According to the Complainants' statement submitted, the Respondent uses the disputed domain name as an email domain impersonating the Complainants and making consumers believe that they were in contact with a person authorized to act on behalf of an entity belonging to the group of the Complainants.

Uncontested by the Respondent, he uses the disputed domain name to send various documents under the corresponding email address in the name and with the logo of "Swiss Life" to consumers who were supposed to fill out the forms in question. Thereby, the addressees are lured into revealing personal information and data or even into making financial transactions later on. The Panel agrees that these activities are likely to constitute an identity theft and phishing activity to acquire personal, sensitive data for fraudulent purpose.

Given that the use of a domain name for *per se* illegitimate activities such as phishing can never confer

rights or legitimate interests on a respondent, such behavior is manifestly considered evidence of bad faith (see section 3.1.4 of [WIPO Overview 3.0](#)).

Furthermore, the Panel finds that the fact that the Respondent has not participated in these proceedings leaves unrebutted the Complainant's serious allegations, and supports a finding that the disputed domain name was registered and used in bad faith (see also *Confederation Nationale du Credit Mutuel v. WhoisGuard Protected, WhoisGuard, Inc, / Jean Duca*, WIPO Case No. [D2021-0977](#); *TTT Moneycorp Limited v. Diverse Communications*, WIPO Case No. [D2001-0725](#); *The Commissioners for HM Revenue and Customs v. Calvin Bonsu*, WIPO Case No. [D2020-1075](#)).

In light of the above, the Panel finds that the Respondent has registered and is using the disputed domain name in bad faith pursuant to paragraph 4(b)(iv) of the Policy. The Complainants have thus satisfied the third element of 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 name <swisslife-usa.com> be transferred to the Complainants.

/Andrea Jaeger-Lenz/

Andrea Jaeger-Lenz

Sole Panelist

Date: October 21, 2022