

ADMINISTRATIVE PANEL DECISION

The Swatch Group AG, and Swatch AG v. Llanes, Lourdes
Case No. D2022-4344

1. The Parties

The Complainants are The Swatch Group AG, Switzerland and Swatch AG, Switzerland, represented internally.

The Respondent is Llanes, Lourdes, United States of America.

2. The Domain Name and Registrar

The disputed domain name <swatchgroups.net> is registered with Google LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on November 15, 2022. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. Also on November 15, 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 Complainants on November 16, 2022 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainants to submit an amendment to the Complaint. The Complainants filed an amended Complaint on November 16, 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 November 17, 2022. In accordance with the Rules, paragraph 5, the due date for Response was December 7, 2022. The Respondent did not submit any Response. Accordingly, the Center notified the Respondent’s default on December 8, 2022.

The Center appointed Mario Soerensen Garcia as the sole panelist in this matter on December 14, 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 The Swatch Group AG and its subsidiary company Swatch AG, the leading designers, manufacturers, sellers, and retailers of wristwatches with branded retail stores throughout North America, Europe, the Middle East, Africa, Central and South America, Asia, and Australia. The Complainants also have a growing number of e-commerce shops available for the brand SWATCH at the Complainants' website "www.swatch.com", which is used to promote the SWATCH brand and its products and services on the Internet. Further, the Complainants' website "www.swatchgroup.com" is used to inform viewers about the Swatch Group AG.

The Complainants own many trademark registrations for SWATCH and SWATCH GROUP, including the following:

- International Registration No. 1187122, for SWATCH GROUP, registered on September 18, 2013;
- International Registration No. 506123, for SWATCH, registered on September 9, 1986;
- Switzerland Registration No. 596749, for SWATCH GROUP, registered on February 11, 2020.

The disputed domain name was created on November 3, 2022, and does not resolve to any active website.

5. Parties' Contentions

A. Complainant

Initially, the Complainants say that given the close legal relationship between the Complainants, consolidation of this Complaint is appropriate.

The Complainants inform that they own the distinctive and well-known SWATCH and SWATCH GROUP trademarks which have been used since at least as early as 1983, and long prior to the creation of the disputed domain name.

According to the Complainants, the disputed domain name is, apart from the added letter "s," identical, on its face, to the Complainants' registered and well-known SWATCH GROUP marks and trade name SWATCH / SWATCH GROUP, which is likely to cause confusion, to cause mistake and to deceive as to the affiliation, connection, or association of the Respondent with the Complainants.

The Complainants allege that the Respondent has no license or authorization from the Complainants and no relationship at all with the Complainants.

Furthermore, the Complainants say that the Respondent is not commonly known by the disputed domain name and that the disputed domain name is nothing more than an intentional misspelling of the Complainants' official domain name and was registered without any rights or legitimate interests.

In addition, the Complainants demonstrate that there is no website linked to the disputed domain name and argue that the Respondent registered the disputed domain name in bad faith, aiming at the Complainants' prospective customers, clients and/or suppliers with the aim of misleading them into believing the Respondent's disputed domain name to be an official domain name of the Complainants' and/or the Complainants' subsidiaries.

The Complainants mention that before filing this Complaint, a written cease and desist notice was sent to the Registrar with the aim of settling this case amicably, without success.

The Complainants conclude that the Respondent intentionally registered a suspicious disputed domain name and that it is probable that a phishing campaign could be launched, probably with misleading emails regarding invoices with suppliers and/or clients sent from an email address “@swatchgroups.net” instead of the Complainants’ official addresses “@swatchgroup.net” (or “@swatchgroup.com”).

Finally, the Complainants request the transfer of the disputed domain name.

B. Respondent

The Respondent did not reply to the Complainants’ contentions.

6. Discussion and Findings

As per paragraph 4(a) of the Policy, the Complainant must prove that:

- (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.

A. Identical or Confusingly Similar

The evidence presented to the Panel demonstrates that the Complainants are the owner of several trademark registrations for SWATCH and SWATCH GROUP around the world, which predate the registration date of the disputed domain name.

The disputed domain name incorporates the Complainants’ trademarks SWATCH and SWATCH GROUP in their entirety. Indeed, the addition of the letter “s” does not prevent a finding of confusing similarity with the Complainants’ trademarks, since they remain recognizable in the disputed domain name.

As numerous prior UDRP panels have recognized, the incorporation of a trademark in its entirety or a dominant feature of a trademark is sufficient to establish that a domain name is identical or confusingly similar to the Complainant’s registered mark. See section 1.7 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

The Panel finds that paragraph 4(a)(i) of the Policy has been proved by the Complainant, *i.e.*, the disputed domain name is confusingly similar to the Complainant’s trademarks.

B. Rights or Legitimate Interests

The Respondent has not submitted a Response to the Complaint.

The Complainants’ trademarks predate the registration of the disputed domain name.

There is no evidence that the Respondent has any authorization to use the Complainants’ trademark or to register domain names containing the trademarks SWATCH and/or SWATCH GROUP.

There is no evidence that the Respondent is commonly known by the disputed domain name.

There is no evidence that the Respondent is making a legitimate noncommercial or fair use of the disputed domain name or that before any notice of the dispute the Respondent has made use of, or demonstrable preparations to use the disputed domain name or a name corresponding to the disputed domain name in connection with a *bona fide* offering of goods or services.

The Panel finds that the use of the disputed domain name, which incorporates the Complainants' trademark, does not correspond to a *bona fide* use, or demonstrable preparations to a *bona fide* use of the disputed domain name under the Policy. Rather, the construction of the disputed domain name itself is such to carry a risk of implied affiliation with the Complainants, which cannot constitute fair use. See section 2.5.1 of the [WIPO Overview 3.0](#).

For the above reasons, the Panel finds that the condition of paragraph 4(a)(ii) of the Policy has been satisfied, *i.e.*, the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The trademarks SWATCH and SWATCH GROUP are registered by the Complainants in several jurisdictions and have been used since several years. Also, the Complainants own domain names consisting of the mark SWATCH, including the domain names <swatch.com>, and <swatchgroup.com>. The registrations of the Complainants' trademarks predate the registration of the disputed domain name.

The disputed domain name is passively held. Section 3.3 of the [WIPO Overview 3.0](#) describes the circumstances under which the passive holding of a domain will be considered to be in bad faith. The Panel finds that passive holding of the disputed domain name does not in the circumstances of this case prevent a finding of bad faith. The disputed domain name incorporates the Complainants' trademarks SWATCH and SWATCH GROUP, its company name, and also its domain names in their entirety. The Respondent has no rights or legitimate interests in the disputed domain name.

The Complainants' SWATCH mark is globally well-known. UDRP panels have consistently found that the mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. See section 3.1.4 of the [WIPO Overview 3.0](#).

Moreover, the Respondent has chosen not to respond to the Complainant's allegations. In these circumstances, and as found in the panel's decision in *The Argento Wine Company Limited v. Argento Beijing Trading Company*, WIPO Case No. [D2009-0610](#), "the failure of the Respondent to respond to the Complaint further supports an inference of bad faith".

Therefore, this Panel finds that the Respondent has intentionally attempted to cause confusion with the Complainants' trademark by misleading Internet users to believe that the disputed domain name belongs to or is associated with the Complainants.

For the above reasons, the Panel finds that the condition of paragraph 4(a)(iii) of the Policy has been satisfied, *i.e.*, the disputed domain name has been registered and used in bad faith.

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, <swatchgroups.net> be transferred to the Complainant.

/Mario Soerensen Garcia/

Mario Soerensen Garcia

Sole Panelist

Date: December 28, 2022