

ADMINISTRATIVE PANEL DECISION

**RIWAY (Singapore) Pte Ltd v. Whols Agent, Domain Protection Services, Inc.
/ N T (Contact ID: 16549229)
Case No. D2022-2621**

1. The Parties

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

The Respondent is Whols Agent, Domain Protection Services, Inc., United States of America (“United States”) / N T (Contact ID: 16549229), China.

2. The Domain Name and Registrar

The disputed domain name <partierstore.com> is registered with Name.com, Inc. (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on July 18, 2022. On July 19, 2022, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On July 24, 2022, the Registrar transmitted by email to the Center its verification response confirming that the Respondent is listed as the registrant and providing the contact details.

The Center verified that 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 July 28, 2022. In accordance with the Rules, paragraph 5, the due date for Response was August 17, 2022. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on August 20, 2022.

The Center appointed Andrew F. Christie as the sole panelist in this matter on August 29, 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”), which aims to provide an established platform offering products for sale solely through authorized independent distributors. These products include, but are not limited to, beauty and health supplement products bearing the trademark PURTIER. The Complainant has been developing its network through its international presence in Singapore, Hong Kong China and many other Southeast Asian markets.

The Complainant is the proprietor of a number of trademark registrations in various jurisdictions, including European Union Trademark Registration No. 013134821 (registered on January 2, 2015) for the figurative trademark PURTIER.

The Complainant’s official website is at “www.purtier.com”.

The disputed domain name was registered on August 29, 2019. The Complainant has provided undated screenshots showing that the disputed domain name resolved to a website with the heading “PURTIER PLACENTA”, purportedly offering for sale products of the Complainant, displaying customer testimonials, and containing the text “ARE WE THE OFFICIAL STORE? We are the distributor of Purtier Placenta.” At the time of this decision, the disputed domain name resolves to a website very similar to the one shown in the Complainant’s screenshots.

5. Parties’ Contentions

A. Complainant

The Complainant made the following contentions to establish that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights. The disputed domain name incorporates the PURTIER trademark and is identical to it, thereby causing likelihood of confusion as to the source and/or sponsorship of the PURTIER trademark. The addition of the generic Top-Level Domain (“gTLD”) “.com” does not diminish the nearly identical nature of the disputed domain name to the PURTIER trademark. The mere addition of the descriptive and generic word “store” to the disputed domain name is insufficient to avoid a finding of confusing similarity between it and the PURTIER trademark. The Complainant has exclusive right to use the PURTIER trademark in connection with skincare and health supplement products. The similarity between the PURTIER trademark and the disputed domain name is even more pronounced in light of the Respondent using the disputed domain name in relation to the same industry as the Complainant’s industry, namely offering skincare and health supplement products for sale bearing the PURTIER trademark.

The Complainant made the following contentions to establish that the Respondent has no rights or legitimate interests in respect of the disputed domain name. The Complainant had, through extensive use, established rights in the PURTIER trademark before the Respondent registered the disputed domain name. 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 trademark. The disputed domain name is not a name or nickname of the Respondent, and is not in any other way identified with or related to any rights or legitimate interests of the Respondent. The Respondent is not affiliated or endorsed by the Complainant in any manner. The Complainant does not sell its products on any website or Internet platform, and strongly prohibits its authorized distributors from selling its products via any online means. The Respondent is operating the website bearing the disputed domain name without permission from the Complainant. The act of advertising online products bearing the PURTIER trademark is a breach of an authorized distributor’s contract. There is no evidence of any demonstrable preparations by the Respondent to use the disputed domain name in connection with a *bona fide* offering of goods, and the Respondent is not making a legitimate noncommercial or fair use of the disputed domain name. The Respondent has registered and used, and will continue to use, the disputed domain name solely for commercial gain for the Respondent’s own business.

The Complainant made the following contentions to establish that the disputed domain name was registered and is being used in bad faith. The website to which the disputed domain name resolves gives the appearance or impression that it is authorized by the RIWAY International Group to advertise, promote or sell PURTIER products, among others, which is contrary to fact. A perusal of the said website would show that the Respondent uses the PURTIER trademark, and that the contents of the said website, particularly pictures, are reproduced from the Complainant's official website at "**Error! Hyperlink reference not valid.**www.purtier.com", and these acts are not authorized by the Complainant. The registration and use of the disputed domain name disrupts the Complainant's business by diverting Internet traffic from the Complainant's website to the Respondent's website. As all authorized distributors of PURTIER products are not allowed to advertise, promote or sell the PURTIER products online, the Respondent puts the authorized distributors at a disadvantage. The Respondent has provided unverified and exaggerated testimonials to promote the products bearing the PURTIER trademark. The registration and use of the disputed domain name is clearly to attract Internet users to the disputed domain name for commercial gain, by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Respondent's website, or of a product or service offered on the Respondent's website. It is inconceivable that the Respondent was unaware of the Complainant's rights in the PURTIER trademark when the Respondent registered the disputed domain name, as the Respondent claims it is a distributor of products bearing the PURTIER trademark, and a simple Internet search would have readily disclosed the existence of the Complainant and its extensive use of the PURTIER trademark. The Respondent chose to conceal its name, address, and other details by using identity protection services and providing inaccurate or incomplete information. A search on the Internet shows that the identical, or almost identical, address of the Respondent is being used by many other entities on the Internet.

B. Respondent

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

6. Discussion and Findings

A. Identical or Confusingly Similar

Once the gTLD ".com" is disregarded (which is appropriate in this case), the disputed domain name consists of the textual component of the Complainant's registered figurative trademark PURTIER followed by the word "store". The Complainant's trademark is clearly recognizable within the disputed domain name. The addition of the word "store" does not avoid a finding of confusing similarity of the disputed domain name with the trademark.

Accordingly, the Panel finds that the disputed domain name is confusingly similar to a trademark in which the Complainant has rights.

B. Rights or Legitimate Interests

The Respondent is not a licensee of the Complainant, is not otherwise affiliated with the Complainant, and has not been authorized by the Complainant to use its PURTIER trademark. The Respondent has not provided any evidence that it has been commonly known by, or has made a *bona fide* use of, the disputed domain name, or that it has, for any other reason, rights or legitimate interests in the disputed domain name. The evidence provided by the Complainant shows that the disputed domain name has been used to resolve to a website displaying the PURTIER trademark and purporting to offer PURTIER products for sale. The contents of the Respondent's website are such that many Internet users will form the false belief that the website is operated by, or affiliated with, the Complainant. Given the confusing similarity of the disputed domain name to the Complainant's trademark, the absence of any relationship between the Respondent and the Complainant, and the failure to avoid the implied false affiliation with the Complainant, the Respondent's use of the disputed domain name is neither a *bona fide* use nor a legitimate noncommercial or fair use.

The Complainant has put forward a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name, and the Respondent has not rebutted this. Accordingly, the Panel finds that the Respondent has no rights or legitimate interests in the disputed domain name.

C. Registered and Used in Bad Faith

The disputed domain name was registered several years after the Complainant first registered its PURTIER trademark. It is inconceivable that the Respondent registered the disputed domain name ignorant of the existence of the Complainant's trademark, given that the disputed domain name consists of the Complainant's trademark with merely the addition of the word "store", and that the Respondent used the disputed domain name to resolve to a website which displays the Complainant's PURTIER trademark and purports to offer for sale the Complainant's goods.

Given the Respondent's lack of rights or legitimate interests in the disputed domain name and the confusing similarity of the disputed domain name to the Complainant's trademark, any use of the disputed domain name by the Respondent almost certainly implies an affiliation with the Complainant that does not exist. The Respondent's registration of the disputed domain name in these circumstances is a bad faith registration.

Furthermore, the evidence on the record provided by the Complainant indicates that the Respondent has used the disputed domain name in an attempt to attract, for commercial gain, Internet users to a website by creating confusion in the minds of the public as to an association between the website and the Complainant. The Respondent's use of the disputed domain name in this manner is a bad faith use.

Accordingly, the Panel finds that the disputed domain name has been registered and is being 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, <purtierstore.com>, be transferred to the Complainant.

/Andrew F. Christie/

Andrew F. Christie

Sole Panelist

Date: September 12, 2022